

No. 10791

Vol
2390

IN THE

United States Circuit Court of Appeals
FOR THE NINTH CIRCUIT

DANIEL P. WHITE, an individual doing business as
GLOBE FREIGHT SERVICE,

Appellant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,

Appellee,

TRANSCRIPT OF RECORD

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

FILED

AUG - 5 1944

PAUL P. O'BRIEN,
CLERK

No. 10791

IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT

DANIEL P. WHITE, an individual doing business as
GLOBE FREIGHT SERVICE,

Appellant,


vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,

Appellee,

TRANSCRIPT OF RECORD

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division



Digitized by the Internet Archive
in 2010 with funding from
Public.Resource.Org and Law.Gov

INDEX.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italics; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

Page

| | |
|---|----|
| Agreed Statement on Case on Appeal, Pursuant to Rule 76 of the Federal Rules of Civil Procedure..... | 2 |
| Certificate of Judge..... | 14 |
| Exhibit A—Original Shipping Order, etc...facing p. | 14 |
| Exhibit B—Shipping Documents, etc.....facing p. | 14 |
| Exhibit C—Bill of Lading.....facing p. | 14 |
| Exhibit D—Opinion | 15 |
| Exhibit E—Findings of Fact and Conclusions of Law | 25 |
| Exhibit F—Judgment | 34 |
| Exhibit G—Notice of Appeal..... | 36 |
| Exhibit H—Stipulation Extending Time to Docket Appeal | 37 |
| Exhibit I—Order Extending Time to Docket Ap- peal | 38 |
| Designation of Record for Printing..... | 41 |
| Names and Addresses of Attorneys..... | 1 |
| Statement of Points Relied on by Appellant..... | 40 |

NAMES AND ADDRESSES OF ATTORNEYS:

For Appellants:

F. W. TURCOTTE,
1004 Builders Exchange Bldg.,
656 S. Los Angeles St.,
Los Angeles, Calif.

For Appellee:

JONATHAN C. GIBSON,
M. W. REED,
L. W. BUTTERFIELD,
WILLIAM F. BROOKS,
448 Kerckhoff Bldg.,
Los Angeles, Calif. [1*]

*Page numbering appearing at foot of page of original certified Transcript of Record.

In the District Court of the United States
for the Southern District of California

Central Division

No. 2384-BH Civil

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,

Plaintiff and Appellee,

vs.

DANIEL P. WHITE, an individual doing business as
GLOBE FREIGHT SERVICE,

Defendant and Appellant.

AGREED STATEMENT OF CASE ON APPEAL,
PURSUANT TO RULE 76 OF THE FEDERAL
RULES OF CIVIL PROCEDURE.

Pursuant to the terms of Rule 76, the parties hereto, believing questions presented by the appeal herein of Daniel P. White, an individual doing business as Globe Freight Service, from the judgment rendered by the trial court in this cause on the 18th day of June, 1943, can be determined by the United States Circuit Court of Appeals for the Ninth Circuit, to which said appeal has been taken, without an examination of all of the pleadings and evidence, present this statement of the case, showing how the differences arise and setting forth such facts as proved or sought to be proved as are deemed essential to a decision of such questions by said United States Circuit Court of Appeals for the Ninth Circuit as follows:

The Atchison, Topeka and Santa Fe Railway Company, the plaintiff and appellee, is a corporation created, organized and existing under the laws of the State of Kansas, engaged in the transportation of freight as a common [2] carrier by railroad subject to Part I of the Interstate Commerce Act between, among other places, the station of Los Angeles in the Southern District of California, and the station of Chicago, Illinois; that at said station of Chicago, Illinois, as well as at other stations on its line, plaintiff and appellee's line of railway connects with other railroad lines, all of which are common carriers of property by railroad subject to Part I of the Interstate Commerce Act and all of which operate lines of railway from said points of connection to the stations of South Bend, Indiana; Indianapolis, Indiana; Canton, Ohio; Cleveland, Ohio; Detroit, Michigan; and Essington, Pennsylvania.

That plaintiff and appellee and all of its connecting rail lines operated and now operate under tariffs lawfully on file with the Interstate Commerce Commission, pursuant to Part I of the Interstate Commerce Act, and not otherwise.

Continuously since April, 1937, defendant and appellant, Daniel P. White, doing business as Globe Freight Service, has conducted a freight forwarding business. He was and is engaged in the undertaking of collecting at his terminal at Los Angeles parcels of freight from various shippers throughout Southern California and consolidating the same into carload lots, and then shipping such carload quantities to his other terminals where they are distributed

locally in smaller lots; the defendant and appellant engages the services of railroad carriers to perform the actual transportation between the terminal centers. He maintains terminals at Los Angeles, California; Chicago, Illinois, Cincinnati and Cleveland, Ohio; Detroit, Michigan; Milwaukee, Wisconsin; and New York. New York. Through solicitation and advertising he holds out to the public a complete service of transportation of small shipments of various commodities. He accepts freight for transportation from store door to store door, issuing a bill of lading in his name covering the through movement and assuming responsibility for the safe delivery of the goods. He publishes tariffs naming through rates which are collected on his billing from shippers and consignees. Shipments are transported from points of origin to his concentration terminal at Los Angeles by motor carriers whose services are engaged by him. [3]

I.

Exhibit "A", hereby referred to and made a part hereof, consists of photostatic copies of the following original documents covering the shipment made January 6, 1940 (24th cause of action):

1. Original shipping order, being a carbon copy of the original bill of lading which was retained by defendant and appellant;
2. Waybill for car ATSF 135668;
3. Waybill for car NKP 22415;
4. Destination station record of freight bill;

5. Los Angeles record of prepaid freight receipt (original retained by shipper);
6. Los Angeles prepaid only waybill;
7. Prepaid and undercharge freight bill submitted to defendant and appellant at Los Angeles, California;
8. Title page of Trans-Continental Freight Bureau Eastbound Tariff No. 3 series, I. C. C. No. 1431;
9. Page 131 of the tariff referred to in sub-division 8 of this paragraph showing Item 503 entitled "Cars Furnished at Variance with Shipper's Order, at Carrier's Convenience";
10. Pages 241 and 242 of the tariff referred to in sub-division 8 of this paragraph showing Item 3060, which contains minimum carload weights and rates applicable on all shipments sued upon herein;
11. Title page of Consolidated Freight Classification No. 13;
12. Page 9 of the Freight Classification referred to in sub-division 11 of this paragraph, showing Rule 24.

The shipping documents, tariffs and rules comprising Exhibit "A" are typical of the shipping documents on the shipments which form the basis of causes of action 24, 29, 43, 46, 56, 59, 78 and 116 of the complaint, with the exception that nothing contained in Document No. 7 of Exhibit "A" shall constitute an admission by the defendant and appellant that he has ever appropriated (as the term is used in the transportation industry) any car which is involved in the causes of action hereinabove specifically mentioned. [4]

II.

Exhibit "B", hereby referred to and made a part hereof, consists of photostatic copies of shipping documents covering the shipment made on October 5, 1940 (79th cause of action) which are similar to those referred to in paragraph I hereof. The shipping documents, tariffs and rules comprising Exhibit "B" are typical of the shipping documents which formed the basis of all of the causes of action of the complaint other than those of which Exhibit "A" is typical, as set forth in paragraph I hereof, with the following exceptions:

(a) That with respect to causes of action 8, 13, 17, 19, 21, 27, 28, 30, 31, 34, 41, 42, 43, 44, 45, 54, 56, 69, 78, 82, 83, 85, 91, 98, 108 and 116, the records of plaintiff and appellee included car orders placed by defendant and appellant; that of the total of twenty-six car orders, ten were for one 40-foot car, nine were for two 40-foot cars, and seven were for one 50-foot car; that two 40-foot cars were used by defendant and appellant in making each of the shipments covered by car orders.

(b) That the shipping order which is Document No. 1 of Exhibit "B" is not typical to the extent that it indicates unloading of one of the cars involved took place at more than one point in the City of Chicago, whereas, a typical shipment in the several causes of action of the complaint, of which Exhibit "B" is otherwise typical, involved the transportation of freight from one point of loading at Los Angeles, California, to one point of unloading at Chicago, Illinois.

(c) That nothing contained in Document No. 7 of Exhibit "B" shall constitute an admission by the defendant and appellant that it has ever appropriated (as that term is used in the transportation industry) any car which is involved in any of the causes of action of the complaint.

III.

The original bills of lading covering all of the shipments sued upon herein were prepared by the defendant and appellant and contain the notation to the effect that a 50-foot car was ordered by said defendant and appellant and two 40-foot cars were furnished at carrier's convenience. Said [5] original bills of lading were submitted to, signed and accepted by the plaintiff and appellee and then returned to the defendant and appellant. Exhibit "C", attached hereto and made a part hereof, is a photostatic copy of the original bill of lading covering the shipment involved in the 3rd cause of action. Said bill of lading is typical of all of the bills of lading covering the shipments involved in all other causes of action in the complaint.

IV.

Item 503 of Trans-Continental Freight Bureau East-bound Tariff No. 3 series, I. C. C. No. 1431, a photostatic copy of which is set forth as Document No. 9 of Exhibit "A", was in effect during all of the times mentioned in the complaint.

V.

All of the shipments sued upon and set forth in the 125 causes of action set forth in the complaint, consisted of

machinery, metal auto parts and miscellaneous commodities.

VI.

In each of the causes of action sued upon herein the rates and charges were collected under the applicable tariff upon the theory that one 50-foot car was ordered and two 40-foot cars were furnished and used at carrier's convenience. The freight charges as collected are the lawfully applicable charges under the tariffs in force on the dates of shipment if the defendant and appellant ordered one 50-foot car and was furnished two 40-foot cars at carrier's convenience, in compliance with the tariff rules and regulations covering the substitution of two smaller cars for one larger car ordered.

VII.

All shipments involved herein were made by defendant and appellant in the ordinary usual course of the operation of his business as a freight forwarder.

VIII.

Prior to the making of the shipments involved it was agreed and understood by and between plaintiff and appellee on one hand, and defendant and [6] appellant on the other hand, that defendant and appellant preferred and desired the use of two 40-foot cars instead of one 50-foot car and that the plaintiff and appellee did furnish the defendant and appellant two 40-foot cars in lieu of a 50-foot car and assessed the charges on the basis of a 50-foot car being ordered and two 40-foot cars furnished at carrier's convenience.

The defendant and appellant made the shipments covered by the 125 causes of action set forth in the complaint, and paid the freight charges therefor in the manner set forth in the findings of fact which have been designated as part of the record on appeal herein.

IX.

It was not for the convenience of the plaintiff and appellee to furnish two 40-foot cars in lieu of a 50-foot car and the two 40-foot cars were not furnished for the carrier's convenience, but were so furnished to the defendant and appellant under and pursuant to the prior understanding and agreement between the parties hereinabove referred to.

X.

The plaintiff and appellee was not and is not a common carrier by motor vehicle, subject to Part II of the Interstate Commerce Act, and none of the shipments involved herein moved partly by rail and partly by motor truck, and none of said shipments moved under any joint rates between a common carrier by railroad and a common carrier by motor truck, or under any rates of a common carrier by motor truck.

Defendant and appellant is not a common carrier by motor truck and did not at any time during the period involved in this action maintain any joint rates with the railroad line of plaintiff and appellee or with any other common carrier by railroad or with any common carrier by motor truck, subject to Part II of the Interstate Commerce Act.

XI.

That during the period involved herein the plaintiff and appellee did not maintain or publish any joint rates with any freight forwarder and did not at any such time participate in or become a party to any freight forwarder tariff and no freight forwarder was a party to any tariff publication published [7] or maintained by it.

XII.

At the conclusion of the trial in the United States District Court in and for the Southern District of California, Central Division, the Court rendered its opinion in writing, copy of which is attached hereto, marked Exhibit "D" and hereby made a part hereof.

XIII.

Thereafter the trial court made its findings of fact and conclusions of law, hereto attached, marked Exhibit "E" and hereby made a part hereof.

XIV.

Thereafter on June 18, 1943, the trial court entered its judgment in favor of the plaintiff and appellee, against the defendant and appellant, copy of which is hereto attached, marked Exhibit "F" and hereby made a part hereof.

XV.

Within the period allowed by law after the entry of said judgment, the defendant and appellant made a motion for a new trial, which motion for a new trial was denied by the trial court on the 28th day of December, 1943.

XVI.

On March 20, 1944, and within 90 days after the denial of defendant and appellant's motion for a new trial, the defendant and appellant served on the plaintiff and appellee notice of appeal, copy of which is hereto attached, marked Exhibit "G" and hereby made a part hereof.

XVII.

On the 25th day of March, 1944, pursuant to an order of the trial court, the defendant and appellant filed with the Clerk of the United States District Court for the Southern District of California, Central Division a Civil Undertaking on Appeal in the sum of \$250.00.

XVIII.

On the 25th day of April, 1944, the defendant and appellant on one hand, and plaintiff and appellee on the other hand, entered into a stipulation, subject to the approval of the trial court, that the time within which the [8] transcript of record shall be filed in the United States Circuit Court of Appeals for the Ninth Circuit be extended to and including June 8, 1944, copy of which stipulation is attached hereto, marked Exhibit "H" and hereby made a part hereof. And on the same day the United States District Court for the Southern District of California, Central Division, duly made its order so extending the time within which the transcript of record shall be filed with the United States Circuit Court of Appeals for the Ninth Circuit to and including June 8, 1944, copy of which order is hereto attached, marked Exhibit "I" and hereby made a part hereof.

XIX.

It is stipulated and agreed that the sole questions presented by the defendant and appellant on his appeal to the United States Circuit Court of Appeals for the Ninth Circuit are (a) whether or not Section 419, Part IV of the Interstate Commerce Act should be held to bar recoveries by rail carriers of the alleged undercharges in connection with freight transported by the plaintiff and appellee and its connections for the defendant and appellant as a freight forwarder during the period from August 26, 1939, to February 11, 1941, both dates inclusive; and (b) whether or not Section 419 of Part IV of the Interstate Commerce Act grants immunity to freight forwarders for alleged undercharges via rail carrier for transportation performed by said rail carrier for the freight forwarder prior to May 15, 1942; and (c) whether or not Section 419 of Part IV of the Interstate Commerce Act bars the plaintiff and appellee from recovering the alleged undercharges.

XX.

It is further stipulated and agreed by the defendant and appellant on the one hand, and the plaintiff and appellee on the other hand, that the argument on motion for a new trial filed in the District Court by defendant and appellant herein, as well as an argument on motion for new trial filed in a similar action brought by the plaintiff and appellee against National Carloading Corporation, were made together on the same day, before the same Judge, and at that time counsel for National Carloading Corpora-

tion referred to Section 419 of Part IV of the Interstate Commerce Act as having a possible [9] bearing on the right of the plaintiff and appellee to maintain the suits for undercharges, but made no firm contention that said section was governing; but that otherwise, the questions now being presented for review by the United States Circuit Court of Appeals for the Ninth Circuit in paragraph numbered XIX hereof were not presented to the District Court for decision, and that the District Court made no specific findings of fact or conclusions of law with respect to said questions.

XXI.

It is further agreed and stipulated that the above is the material evidence in the case and that the facts as stated above may be regarded as true by the United States Circuit Court of Appeals for the Ninth Circuit, and this agreed case shall be taken and deemed by the Court as a part of the record in this case, without any statement of evidence.

Dated June 5, 1944.

F. W. Turcotte

Attorney for Defendant and Appellant.

JONATHAN C. GIBSON

WILLIAM F. BROOKS

Jonathan C. Gibson

By William F. Brooks

Attorneys for Plaintiff and Appellee.

Approved this 5 day of June, 1944, and ordered, when filed in the office of the clerk of this court, to supersede, for the purpose of the appeal herein, all parts of the record in this case other than said judgment appealed from, and further ordered to be copied, together with such judgment, and certified to the United States Circuit Court of Appeals for the Ninth Circuit as the record on the appeal herein.

Dated June 5, 1944.

Ben Harrison
District Judge. [10]

(Photostats.)



THIS SHIPPING ORDER

The Atchison, Topeka and Santa Fe Railway Company

COAST LINES

... adopted by Carriers in Official, Southern, Western and Ill.
... 1912, as amended August 2, 1926.

must be legibly filled in, in ink, in indelible pencil, or in carbon and retained by the Agent.

Shipper's No. **LAC 403-40**

Agent's No. _____

Los Angeles Calif **175/40**

19 _____ From _____

... described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated below, which said ...
... company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agreed to carry to its usual place of ...
... destination, if on its own road or its own water line, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed that each carrier of all or a part of ...
... any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all laws ...
... not prohibited by law, whether printed or written, herein excluded, including the conditions on back hereof, which are hereby agreed to by the shipper and accepted for himself and his agent.

GLOBE FREIGHT SERVICE % Penoyer (Merchandise Transfer Co 742 South Main St)

... to **CHICAGO... ILLINOIS**

... Santa Fe all the way in TRAIN **138**

ATSF 135668'

ATSF 14th St Dely

NKP 22415

... ing Carrier

Car Initial

Car No.

Carload Machinery, SPECIAL MARKS AND EXCEPTIONS • Weight (See its Correction) • Pieces • Rate • Check Col. ...

3060 & all items covered by item 3060, TCFB EB Tariff

0000 DETAILED LIST TO FOLLOW 0000

S L & C

ATSF 135668 & NKP 22415

1 50 foot car ordered; 2 smaller cars furnished by RR

(Signature of Consignor)

If charges are to be prepaid, write or stamp here "To be Prepaid."

Received \$
If apply in payment of the charges on the property described hereon.

very rush...do not delay

SPECIAL BRACING & BLOCKING: DO NOT TRANSFER

RUSH IN TRAIN 138

Agent or Carrier

... shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether ... carrier's or shipper's ...
... where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.
... or declared value of the property is hereby specifically stated by the shipper to be not exceeding _____

THE FREIGHT

Shipper

... For

... ment postoffice address of shipper

Agent must retain this Shipping Order and must sign the Original in Los Angeles CALIF.

... PRINTERS CHICAGO

EXHIBIT A

2

See Here
ED FREIGHT
 L. A. 7
 C. O. P. 1001

Rate 6 29 12551 Rate 418

Form 1826 Regular

30 THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY—COAST LINES 30

FREIGHT WAYBILL

To be Used for Single Consignments, Carload and Less Carload.

| WEIGHT IN TONS | | LENGTH OF CAR | | MARKED CAPACITY OF CAR | | Estimated Weight of Car |
|---------------------|-----|---------------|-----------|------------------------|-----------|-------------------------|
| Gross | Net | Ordered | Furnished | Ordered | Furnished | |
| 37 | 13 | | | | | |
| INITIALS AND NUMBER | | DATE | | WAYBILL No. | | |
| AT&SF 135668 | | JAN 6 1940 | | AT&SF 121 | | |
| STATION | | STATE | | STATION | | STATE |

CHICAGO ILLS 0

RR 12141 LOS ANGELES CALIF

No. ()

SIGNED TO STATION STATE

FULL NAME OF SHIPPER and, for C. O. D. Shippers, the Street Address

GLOBE FREIGHT SERVICE
 SHPRS LAC 403-404

Origin and Date, Original Car, Transfer From and To, and Previous Waybill Number and Routing When Rebill.

BELEN AT&SF SHPRS

Show "A" if Agent's Routing or "B" if Shipper's Routing

NEE AND ADDRESS

GLOBE FREIGHT SERVICE
 C-O P. 1001 MOYER MERCHANTS TRANSFER CO
 ESTINATION AND ADDITIONAL ROUTING
 742 W. POLK ST
 C-O T&SF 14TH ST DELIVERY

CTIONS (Regarding Lcng, Ventilation, Heating, Milling, Weighing, Etc. If load, Specify to Whom lcing Should be Charged).

Trans-Continental Freight Bureau Weighing Dept.
 Scale Ticket No.

AT Date Weighed m. Initials

GROSS Car Weighed Uncoupled at Los Angeles

TARE Gross

ALLOW Tare

NET Capacity ORIGINAL Load Limit

Indicate of

OX AND 1 CRTN RADIO PARTS NOS
 AIL PET LUBR OIL
 RTN STEERING WHEELS
 RATE ELECTRIC WASHING MACHINE
 CRTNS WASHING MACHINE PARTS
 LANCE MACHINERY AND METAL AUTO PARTS

| | | |
|-------|-----|---------|
| 70 | 404 | 2 83 |
| 25 | 340 | 85 |
| 15 | 398 | 60 |
| 110 | 353 | 3 88 |
| 786 | 353 | 29 751 |
| 56154 | 178 | 999 54 |
| 57160 | | 1035 45 |

INCLUDES WEIGHT AND CHARGES FOR NKP
 15 WAYBILL AT&SF 122 ONE FIFTY FOOT CAR ORDERED
 SMALLER CARS FURNISHED ACCOUNT CARRIERS CONVENIENCE

ADDITIONAL PACKING & LOOKING ON NOT TRANSFER
 IN TRANSIT 138

First Junction

Outbound Junction Stamp in Space and Order Provided.

Third Junction

Fourth Junction

Destination Agent Will Stamp Herein Station Name and Date Reported

Additional Junction Stamps and All Yearbook Stamps to be Placed on Back of Waybill

30 THE ATCHISON TOPEKA AND SANTA FE RAILWAY COMPANY—COAST LINES 30

JAN 12 1940

JAN 16 1940

CHICAGO

22--The Atchison, Topeka and Santa Fe Railway Company--228 41

Agent's Consecutive No. 269

Date Issued Feb 27 1941

Supplementary Correction made at CHICAGO Station 1595 Jan 15 1941
 Entered in Cash Book 19 and in Station Freight Balance for FEB 27 1941 19

| | | | |
|--|-----------------|--|--------------------|
| NAME OF RAILROAD MAKING WAYBILL Atchison, Topeka and Santa Fe Railway Company | | Date Jan 15 1941 | Waybill No. 121 |
| To (Station) CHICAGO | (State) ILL. | From (Station) Atchison | (State) KAN. |
| Route (Show Each Junction and Carrier in Route Order) Atchison, Topeka, Lawrence, Chicago | | Shipper (Show Original Point of Shipment when Rebill) Atchison, Topeka, Lawrence, Chicago | |
| CONSIGNEE AND DESTINATION (As Billed) Chicago | | CONSIGNEE AND DESTINATION (As Corrected) Chicago | |

WAYBILL READS PREVIOUS TO CORRECTION

MAR 7 1941

| ARTICLES | WEIGHT | RATE | FREIGHT | ADVANCES | PREPAID |
|----------|--------|------|---------|----------|---------|
| 100 lbs | 220 | 1.00 | 216 | | |
| 100 lbs | 126 | .50 | 2775 | | |
| 100 lbs | 56154 | 175 | 11954 | | |
| | 57180 | | 12545 | | |

8 10 11 12

CHICAGO TO ATCHISON
 100 lbs Rate Dr. & Cr. Dr.
 100 lbs before Correction
 100 lbs 11-2 90

WAYBILL READS AFTER CORRECTION

| ARTICLES | WEIGHT | RATE | FREIGHT | ADVANCES | PREPAID |
|----------|--------|------|---------|----------|---------|
| 100 lbs | 220 | 1.00 | 216 | | |
| 100 lbs | 126 | .50 | 1399 | | |
| 100 lbs | 56154 | 175 | 11954 | | |
| | 57180 | | 2109 | | |

30 34 12 12 41

When a debit or credit is created by correction in advances and prepaid, supplementary correction will be listed twice on Form 300 or 105, once for the addition and again for the deduction in advances or prepaid as the case may be.

ADD

DEDUCT

Authority

When the difference to be deducted is to be refunded to the consignee his receipt should be taken in this space:
 Received of THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,

42 Dollars (\$) in full payment of overcharge on freight bill No. 121
 RECEIPT. THE REFUND HAS BEEN ENDORSED BY AGENT ON THE ORIGINAL PAID FREIGHT

Signature

I hereby certify that the above charges are correct, that the Station Records have been corrected accordingly, and that REFUND AS BEEN ENDORSED ON ORIGINAL PAID FREIGHT RECEIPT.

*These lines to be used only in issuing agents of Foreign Roads about

Agent

in Advances and Prepaid

Refer to Instructions contained in Form 500.

BOY, Agent

10 2a

30 THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY-COAST LINES 30

FREIGHT WAYBILL

To be Used for Single Consignments, Carload and Less Carload.

RED BAR FREIGHT

Station Symbol and Number **972**

SHIP AND CAR AT **2**

| WEIGHT IN TONS | | LENGTH OF CAR | | MARKED CAPACITY OF CAR | | Standard Weight of Car |
|----------------|-----------|---------------|-----------|------------------------|-----------|------------------------|
| Gross | Net | Ordered | Furnished | Ordered | Furnished | |
| 41 | 14 | | | | | |

| | | | |
|---|--|-----------------------------|-------------------------------------|
| INITIALS AND NUMBER NKP 22415 | C. L. Transferred to or L. C. L. Loading No. | DATE JAN 6 1940 | WAYBILL No. AT&SF |
| STATION CHICAGO ILLS | STATE 0 | FROM CHICAGO ILLS | STATION LOS ANGELES CALIF |

| | | | |
|----------------------------------|---------------------|-------------------|---|
| SIGNED TO CHICAGO ILLS | STATION 0 | STATE 0 | FULL NAME OF SHIPPER and, for C. O. D. Shipments, the Street Address. GLOBE FREIGHT SERVICE SHPRS LAC 403-404 |
|----------------------------------|---------------------|-------------------|---|

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

| | |
|---|---|
| ORIGIN AND DESTINATION (Show each Junction and Carrier in Route, Order to Destination of) | Show "A" if Agent's Routing or "B" if Shipper's Routing |
| BELEN AT&SF SHPRS | |

STATION RECORD

Form 1875-A Regular



Consignee
Destination
Route

GLOBE FRT SERVICE CASE PENNETER
742 N POLA ST
CHICAGO ILL 60610
(POINT OF ORIGIN TO DESTINATION)

FREIGHT
BILL NO

JAN 15 1940
1535

19

2

The Atchison, Topeka and Santa Fe Railway Co.

| | | | |
|-------------------------------------|--------------------------------------|--|---------------------------------|
| Way-Billed From LOS ANGELES CAL | Way-Bill Date and No. JAN 6 40 AT | Full Name of Shipper GLOBE FRT SERV | Car Initials and No. AT 1535 |
| Original Point and Date of Shipment | Connecting Line Reference | Previous Way-Bill References SHIP LTR 403 404 | Original Car Initials and No. |

| NUMBER OF PACKAGES, ARTICLES AND MARKS | WEIGHT | RATE | FREIGHT | ADVANCES | TOTAL |
|---|---|------|------------------|----------|-------|
| 1 BOX & 1 CTN RADIO PTS | 70 | 400 | 280 | | |
| 1 PAIL PET LUB OIL | 25 | 340 | 85 | | |
| 1 CTN TAPPING MACHS | 15 | 200 | 60 | | |
| 1 CTN TAP WASH MACHINE | 110 | 250 | 388 | | |
| 17 CTN TAP WASH PARTS CONSISTS OF GEAR PARTS MOTOR PARTS MACHINE PARTS | 700 | 178 | 1399 | | |
| 17 CTN TAP WASH PARTS CONSISTS OF GEAR PARTS MOTOR PARTS MACHINE PARTS | 56154 | 178 | 99954 | | |
| LOCATION DELIVERY BY | SHIP LTR 403 404 57160 102169 102169 | | | | |
| BAL MACHINERY METAL AUTO PTS INCLUDE WELDRG FOR RXP 2415 AT 122 ONE 50 CT SHIP LTR 403 404 ACCT CARRIER CONV G 74200 T 48500 N 25700 | | | TOTAL TO COLLECT | | |

STATION RECORD

Form 1875-A Regular



Consignee
Destination
Route

GLOBE FRT SERVICE CASE PENNETER
742 N POLA ST
CHICAGO ILL 60610
(POINT OF ORIGIN TO DESTINATION)

FREIGHT
BILL NO

JAN 15 1940
1535

19

2

The Atchison, Topeka and Santa Fe Railway Co.

| | | | |
|-------------------------------------|--|--|---------------------------------|
| Way-Billed From LOS ANGELES CAL | Way-Bill Date and No. JAN 6 1940 AT | Full Name of Shipper GLOBE FRT SERV | Car Initials and No. AT 1535 |
| Original Point and Date of Shipment | Connecting Line Reference | Previous Way-Bill References SHIP LTR 403 404 | Original Car Initials and No. |

| NUMBER OF PACKAGES, ARTICLES AND MARKS | WEIGHT | RATE | FREIGHT | ADVANCES | TOTAL |
|---|-----------------------|---|---------|----------|-------|
| CTN MACHINERY AUTO METAL PARTS G 74200 T 48500 N 37460 | 21450 | WELDRG CHARGES ON LOS ANGELES CAL 17 CHGO ILL PTS AT 121 1/6/40 SHIP AT 153560S COLLECT | | | |
| LOCATION DELIVERY BY | Total Prepaid \$..... | | | | |
| (This is a copy of the freight bill and is not a receipt for transportation charges paid) | | | | | |
| TOTAL TO COLLECT | | | | | |

15

4

Form 1881 Regular

PREPAID FREIGHT BILL

Santa Fe

JAN 17 40 CA
LOS ANGELES, CAL.

19

GLOBE FRT SERVICE

Via

FREIGHT
BILL No. } 3156 A

To The Atchison, Topeka and Santa Fe Railway Company—Coast Lines, Dr.

| WAYBILL | | CAR | | FROM | | | CONSIGNEE AND DESTINATION | |
|----------------------------|-------------------|----------|---------|-------------------|------|---------|---------------------------|---------|
| DATE | NUMBER AND SERIES | INITIALS | NUMBER | LOS ANGELES, CAL. | | | GLOBE FRT SERVICE | |
| JAN 17 40 AT | 306 | LA WT | 121 JAN | 6 | 40 | | CHGO ILL | |
| FOR FREIGHT AND CHARGES ON | | | | WEIGHT | RATE | FREIGHT | ADVANCES | TOTAL |
| MACHINERY & AUTO METAL PTS | | | | 67160 | 178 | 119545 | | |
| SHOULD READ | | | | | | | | |
| 1 BX 1 CTN RADIO PTS NOS | | | | 70 | 404 | 283 | | |
| 1 PAIL LET LUBR OIL | | | | 25 | 340 | 85 | | |
| 1 CTN STEERING WHEELS | | | | 15 | 398 | 60 | | |
| 1 Crt ELEC WASH LACH | | | | 110 | 353 | 388 | | |
| BAL MACHRY MTL AUTO PARTS | | | | 56140 | 178 | 99954 | | |
| 17 CTNS WASH MACH PTS | | | | 786 | 353 | 2775 | | 103545 |
| INCLUDES WTC FOR MKP 22415 | | | | | | | | |
| RECEIVED PAYMENT | | | | | | | TOTAL | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | Agent. | | | TOTAL TO COLLECT | 1035 45 |

(((COPY)))

This form of Freight Bill to be used by FORWARDING AGENTS, and only in cases where shipments are waybilled PREPAID.

16

30 The Atchison, Topeka and Santa Fe Railway Company—Coast Lines 30 PREPAID ONLY WAYBILL

INSTRUCTIONS GOVERNING THE USE OF THIS FORM.

Use this waybill only to transfer credits to another station as set forth in FORM 500, INSTRUCTIONS TO STATION FREIGHT AGENTS. Make a separate prepaid only waybill for each adjustment even where several adjustments are made on the same revenue waybill. Describe clearly each consignment adjusted and also where the revenue waybill contains more than one consignment, write the number of that consignment in the space "Full Name of Shipper, Etc." When reference to revenue way-bill is not available, enter in the "Remarks" column any facts which will assist the receiving agent in finding the revenue waybill. If the receiving agent refunds the prepaid, receipt must be taken in space set aside therefor; if he applies the prepaid against an uncollected item he will fill out and sign the certificate hereon. When unable to refund the amount of the prepaid or to credit it to the station, enter the amount thereof in the "Freight" column of the prepaid only. Then report the Freight in the "Freight" column of Form 309 and the Prepaid in the "Prepaid" column of that form.

| | | | |
|---|-------|------------------------------------|--------------------------------|
| CAR INITIAL AND NUMBER (As Shown on Revenue Waybill) ATSEF 135668 AND NKP 22415 | | DATE JAN 17 1940 | WAYBILL No. ATSEF 306 |
| STATION CHICAGO ILLS | STATE | FROM RM 12141 LOS ANGELES CALIF | STATE |
| Transfer Credit Account LA | | Waybill No. WAT 121 AND 162 | Freight Bill No. JAN 6 1940 |

| ABOVE WAYBILL READS | | | | | | |
|---|--------|------|---------|----------|---------|--|
| ARTICLES | WEIGHT | RATE | FREIGHT | ADVANCES | PREPAID | |
| GLOBE FREIGHT SHPRS LAC 403-404 C-L AGGRIERY AND AUTO METAL PTS | 67160 | 178 | 119545 | | | |
| 135668 GROSS 74200 T 48500 N 25700 | | | | | | |
| P 22415 GROSS 82860 T 51400 N 31460 | | | | | | |

| ABOVE WAYBILL SHOULD READ | | | | | | |
|---|--------|------|---------|----------|---------|--|
| ARTICLES | WEIGHT | RATE | FREIGHT | ADVANCES | PREPAID | |
| GLOBE FRT SERVICE 1 BX & 1 CRTN RADIOS C-O PLUNOYER NOS 70 404 2.83 CROOKS TSTFR CO 1 PAIR LET LUBR OIL 25 340 .85 742 W POLK ST 1 CRT STEERING WHEELS 15 398 .60 AT 14TH ST CHLY 1 CRT ELEC T WASH MACH 110 353 3.88 CHICAGO ILLS BAL MACHY & METAL AUTO PARTS INCLUDES W/C FOR NKP 22415 56154 178 999.54 17 CRTS WASH MACH PTS 786 353 27.75 | | | | PAID | 1035.45 | |

TE: DO NOT REPORT ABOVE FIGURES ON FORM 309 OR 308.

| REMARKS | Freight Bill No. | FREIGHT | PREPAID |
|---------|------------------|---------|---------|
| 51160 | | | |
| | | 1035.45 | 1035.45 |

| | |
|--|------------|
| signed from and on shipment herein described. | 10 Dollars |
|--|------------|

| CERTIFICATE | |
|---|---|
| I certify that I have applied the amount of the credit received against my uncollected Freight Bill Date <u>Jan 19 1940</u> <u>E. H. Gotsch</u> Agent | Sign Here Station Agent will stamp here- in the date reported 20 1940 LOCAL FREIGHT OFFICE CHICAGO |

CONSIGNEE

PREPAID FREIGHT BILL

FORM 1881 REGULAR

Santa Fe

LOS ANGELES, CALIF., July 14 19 42

Globe Freight Service

VIA

FREIGHT BILL NO. } AO-247

To The Atchison, Topeka and Santa Fe Railway Company—Coast Lines, Dr.

| WAYBILL | | CAR | | FROM | | CONSIGNEE AND DESTINATION | |
|--|-------------------|-----------|----------------|---------------------|-----------|------------------------------|-------------------------------|
| DATE | NUMBER AND SERIES | INITIALS | NUMBER | LOS ANGELES, CALIF. | | | |
| 1-6-40 | AT 121 | AT NAP | 15668 22415 | | | Globe Frt Service Chicago | |
| FOR FREIGHT AND CHARGES ON | | | | WEIGHT | RATE | FREIGHT | ADVANCES |
| Machinery and metal auto parts Lead car 3L460 as 2nd car Cars appropriated. Protect Rule 24 | | | | 40000 | | | |
| | | | | 24794 | | | |
| | | | | 64794 | 1 73 | 1163 33 | |
| | | | | 1006 | No charge | 8 16 | |
| | | | | | | 1161 47 | |
| RECEIVED PAYMENT | | | | TOTAL | | | 1161 47 1153 39 |
| | | | | Paid | | | 1021 69 |
| AGENT. | | | | TOTAL TO COLLECT | | | 139 80 |

This form of Freight Bill to be used by FORWARDING AGENTS, and only in cases where shipments are waybilled PREPAID.

18

7

This tariff will be released effective on or before June 30, 1940

C. T. C. No. 728
(Cancels C. T. C. No. 707)

I. C. C. No. 1431
(Cancels I. C. C. No. 1413)

TRANS-CONTINENTAL FREIGHT BUREAU

(L. E. KIPP, Agent)

EAST-BOUND TARIFF No. 3-M

(Except portions under suspension
in I. & S. Dockets 4510 and 4532.)

(Cancels Tariff 3-L)

— NAMING —

LOCAL, JOINT, EXPORT, IMPORT AND PROPORTIONAL COMMODITY RATES

— FROM POINTS IN —

ARIZONA
CALIFORNIA

MEXICO
NEVADA

NEW MEXICO
OREGON

UTAH

(Referred to in Item 38)

— TO POINTS IN —

ALABAMA
ARKANSAS
CANADA
COLORADO
CONNECTICUT
DELAWARE
DISTRICT OF
COLUMBIA
FLORIDA
GEORGIA
ILLINOIS

INDIANA
IOWA
KANSAS
KENTUCKY
LOUISIANA
MAINE
MARYLAND
MASSACHUSETTS
MICHIGAN
MINNESOTA
MISSISSIPPI

MISSOURI
NEBRASKA
NEW HAMPSHIRE
NEW JERSEY
NEW MEXICO
NEW YORK
NORTH
CAROLINA
NORTH DAKOTA
OHIO
OKLAHOMA

PENNSYLVANIA
RHODE ISLAND
SOUTH CAROLINA
SOUTH DAKOTA
TENNESSEE
TEXAS
VERMONT
VIRGINIA
WEST VIRGINIA
WISCONSIN
WYOMING

(Referred to in Item 34)

GOVERNED, EXCEPT AS OTHERWISE PROVIDED HEREIN, BY WESTERN CLASSIFICATION No. 68 (I. C. C. No. 24 AND C. T. C.-W. C. No. 24 OF R. C. TYPE, AGENT) HEREINAFTER REFERRED TO AS CURRENT WESTERN CLASSIFICATION

ISSUED MAY 17, 1939

EFFECTIVE JUNE 30, 1939

(Except as otherwise provided herein)

Departure from the terms of Rule 9 (f) of Tariff Circular No. 20 is authorized under permission of the Interstate Commerce Commission No. 182847 of April 29, 1938.

EFFECTIVE JUNE 30, 1939

ISSUED BY

L. E. KIPP, Agent, 516 W. Jackson Boulevard, Chicago, Ill.

(File 6-3-M)

GENERAL RULES

APPLICATION OF WESTERN CLASSIFICATION RULES

This tariff is governed by the "Rules" published in current Western Classification except as otherwise specifically provided in this tariff.

MINIMUM CARLOAD WEIGHTS

(This rule does not apply in connection with rates named in tariff specifically shown as subject, wholly or in part, to Rule 34 of current Western Classification.)

SECTION 1

CARS FURNISHED AT VARIANCE WITH SHIPPERS' ORDERS AT CARRIERS' CONVENIENCE

Except where specifically provided to the contrary in individual items of this tariff, carrier will furnish car of dimensions or weight carrying capacity ordered by shipper, but if carrier for its convenience furnishes car of different dimensions or weight carrying capacity, the following rules will govern. Shippers may not place, and carriers will not accept, orders for cars of less marked weight carrying capacity than the prescribed minimum weight governing the rate applicable, nor for box, flat or gondola cars exceeding 50 feet 6 inches in length or of weight carrying capacity exceeding 100,000 lbs. When order is for closed car over 46 feet 6 inches in length but not exceeding 50 feet 6 inches in length, any car within this range of lengths may be furnished and will be considered as compliance with order for car of length specified.

- (a) Where car of greater dimensions or weight carrying capacity is furnished, charges will be applied on the basis applicable to car of dimensions or weight carrying capacity ordered (Subject to Note 1).
- (b) *(The provisions of this paragraph do not apply to bulk freight, i. e., freight which carriers do not accept in bulk for less than carload shipment.)* When car of smaller dimensions or less weight carrying capacity is furnished, actual weight applies provided it is loaded to its full visible capacity or as heavily as loading conditions will permit; the balance of the shipment will be taken in another car at actual weight and carload rate, and the entire shipment will be subject to carload minimum weight applicable to the car of dimensions or weight carrying capacity ordered (Subject to Notes 1 and 2).
- (c) *(The provisions of this paragraph apply to bulk freight only, i. e., freight for which no less than carload rating in bulk is provided in current Western Classification.)* When car of smaller dimensions or weight carrying capacity is furnished and loaded to its full visible capacity, actual weight will apply; if not loaded to its full visible capacity, the minimum weight provided, but not to exceed the marked capacity of car, will apply, unless actual weight is greater (Subject to Note 1).
- (d) When open car of specified length is ordered and two shorter cars are furnished, charges on the two cars will be applied on the basis applicable to car of length ordered (Subject to Note 2).
- (e) When refrigerator cars are furnished at carrier's convenience for shipments for which tariff provides a minimum weight greater than the weight carrying capacity of the refrigerator car furnished, the minimum weight will be the weight carrying capacity of the car furnished, but not less than 50,000 lbs. (except where specifically provided to the contrary in individual items of this tariff).
- (f) Agents will show on bills of lading and waybills dimensions or weight carrying capacity of car ordered and date of order; also number, initials and dimensions or weight carrying capacity of car or cars furnished.

Note 1. Paragraphs (a), (b) and (c) do not apply to Live Stock (see rules of individual carriers lawfully on file with the Interstate Commerce Commission), nor to tank cars, nor to refrigerator cars loaded with freight under ventilated, heated or refrigerated protection.

Note 2. When two cars are furnished in lieu of a larger car ordered, no different service will be performed in placing the two cars for loading or unloading than would be performed in placing the one car ordered, except that when truckage disabilities existing at the place of loading or unloading make it necessary, the two cars may be placed at different but adjacent locations, or at the same location at different times.

SECTION 2

MINIMUM CARLOAD WEIGHTS BASED ON THE MARKED CAPACITIES, CUBICAL CAPACITIES, LENGTHS AND DIMENSIONS OF CARS USED

Minimum carload weights based on the marked capacities, cubical capacities, lengths and dimensions of cars used are subject to the marked capacities, cubical capacities, lengths and dimensions of the cars as shown in I. C. C. - R. E. R. No. 251 of G. P. Conard, Agent.

SECTION 3

MINIMUM CARLOAD WEIGHT FOR SHIPMENTS TRANSFERRED TO-FROM NARROW GAUGE CARS

When necessary to transfer freight from broad to narrow gauge cars, or vice versa, minimum carload weight as provided herein for standard gauge cars applies regardless of the number of narrow gauge cars necessary to transport the shipment.

I. B. For Explanation of Abbreviations, see Item 1.

| ARTICLES (See Item 38) | MIN. C. L. WT. (Pounds) | Rates in Cents per 100 Pounds (Except as noted) | |
|--|----------------------------------|--|--|
| | | TO Points taking the following Group Rates (See Item 34) | FROM Points taking RATE BASIS 1 (See Item 35) L. C. L. C. L. |
| See following page. | | | |
| Machinery or Machines, or Parts thereof, as described in Items 52 to 85, incl. (Subject to Notes 5 and 6). | | Links, dredge bucket, | |
| Articles as described in Item 1186 (See Item 1186). | | Locomotive Parts as described under heading "Railway Car or Locomotive Parts" in current Western Classification, N. O. S., | |
| Articles as described in Item 2015 (See Item 2015). | | Locomotives, compressed air, electric, gas, gasoline or steam (Subject to Note 3). | |
| Articles as described in Item 2306 (See Item 2306). | | Machinery or Machines, cheese factory, creamery or dairy, or Parts thereof, as described in Item 85, | |
| Articles as described in Item 2435 (See Item 2435). | | Machinery, refrigerating, | |
| Articles as described in Item 2540 (See Item 2540). | | Machines, cutting and packing, ice cream, | |
| Articles as described in Item 3280 (See Item 3280). | | Machines, dish washing (other than household) (Subject to Item 612) (See Item 3095). | |
| Air Cleaners, Coolers, Heaters, Humidifiers or Washers and Blowers or Fans combined (Subject to Note 13) (See Item 2660). | | Machines, electrical testing, with or without Lathe or Vise, in crates, | |
| Arresters, spark, | | Machines, exercising (Electric Motor combined with attachment for producing vibratory motion), in crates, | |
| Automobile Hydraulic Rotary Lifts, iron or steel, | | Machines, food slicing, in boxes, | |
| Bars, roller, paper mill, | | Machines, fruit or vegetable sorting, N. O. S., | |
| Bases, dredge, | | Machines, riveting, | |
| Batteries (See Item 1290). | | Machines, shingle, | |
| Bells or Buzzers, electric, in boxes, | | Magnets, lifting, electric, | |
| Belting, link, iron, | | Meters, electric, | |
| Blocks, fuse, | | Meters, liquid or flow, or Parts thereof, with recording devices boxed, other parts loose or on skids or in crates, | |
| Blocks, pulley, weighing each 100 lbs. or more, loose or in packages, | | Mills (coffee, drug or spice), power, with or without motors, crated, | |
| Blocks, tackle, weighing each 100 lbs. or more, loose or in packages, | | Mills, roller, | |
| Blowers, steam jet, | | Molds, ice cream, | |
| Bodies, dumping, iron or steel (Subject to Note 8), | | Mowers (lawn) and Engines combined, in crates; or extra Parts, in boxes, | |
| Boilers, power, including Fire Brick and Fire Clay for setting, | | Mowers, lawn (other than hand); or extra Parts, in boxes, | |
| Boxes (fuse), transformer, | | Oil, transformer (See Item 3240), | |
| Brick, fire, including Fire Brick Shapes (See Item 1490), | | Outfits, paint spraying (Subject to Note 9), | |
| Brushes, carbon (Subject to Item 612), | | Ovens (not Dutch ovens), baking, iron or steel (See Item 2660), | |
| Cable (copper electric), iron, steel or lead covered, in coils or on reels, | | Packers, butter, | |
| Cable (copper electric), other than iron, steel or lead covered, in boxes, in coils or on reels, | | Packing Devices, Forms or Shapes, in boxes (Subject to Note 10) (See Item 2705), | |
| Cans (not to exceed 3,000 lbs.), milk or cream, N. O. S., | | Pans, baking, nested or flat, Parts, metal, of articles provided for in this Item (Subject to Item 612), | |
| Capacitors, | | Parts, pump, for hand or wind-mill pumps, including: | |
| Carbons (Subject to Item 612), | | Buckets with or without chains | for hand |
| Carriages, mold, | | Curbs (Pump | or |
| Carriers, refrigerator, | | Boxes, without | wind- |
| Cars (railway), dump, | | fixtures | mill |
| Cars (railway), motor inspection or motor section, loose or in packages, and Power Tops for Hand Cars, loose or in packages, | | Spouts, swivel | pumps, |
| Cases, milk bottle, | | Tubing | |
| Castings, chain, | | | |
| Chain, including Chain Shackles, N. O. S. | | | |
| Collectors, dust, metal (Subject to Item 612), | | | |
| Compounds, Forms, Shapes or Tubes, insulating (electrically), in boxes, | | | |
| Concentrators or Condensers, milk, | | | |
| Conduits, flexible, iron or steel, | | | |
| Cylinders, creosoting, steel plate, | | | |
| Devices, automobile hoisting, K. D., | | | |
| Devices, starting, | | | |
| Disinfectors, steam pressure, iron or steel, | | | |
| Dogs, lathe, | | | |
| Dredges or Parts thereof (Subject to Note 3), | | | |
| Driers, Dehydrators or Evaporators, fruit or vegetable, | | | |
| Electrical Appliances as described in Item 78, or Parts thereof, | | | |
| Electrodes, carbon (Subject to Item 612) (See Item 2145), | | | |
| Equipment, welding, | | | |
| Exciters, | | | |
| Flasks, foundry, | | | |
| Floors, cooling or drying, iron, punched and fitted, | | | |
| Forges, | | | |
| Frames (ice can or ice tank), iron or steel, | | | |
| Freezers, ice cream, and Ice Crushing Machines combined, with or without motors, in crates or on skids, | | | |
| Freezers (power), ice cream, brine circulating or direct expansion ammonia, | | | |
| Furnaces, metal heating or melting, N. O. S., | | | |
| Gages, air, gasoline or oil, in boxes (Subject to Item 612), | | | |
| Gages, pressure, steam or vacuum, N. O. S., in boxes (Subject to Item 612), | | | |
| Gages, water, other than pressure, in boxes (Subject to Item 612), | | | |
| Gates (iron or steel), head or sluice, canal or reservoir, | | | |
| Gates, water, | | | |
| Gears, | | | |
| Grading Shield and Arcing Horn Assemblies consisting of: | | | |
| Arcing Horns, | | | |
| Grading Shields, | | | |
| Yokes, | | | |
| Grease or Oil Guns, hand, without Kits or Tanks, in boxes, | | | |
| Grease or Oil Guns, power, or Grease Kits or Tanks, hand or power, with or without Pumps or Hose, in crates, | | | |
| Heads, exhaust, | | | |
| Holders, tool, | | | |
| Hoops, truss, | | | |
| Injectors, steam or water, in boxes (Subject to Item 612), | | | |
| Ladies, butter, | | | |
| Ladies, slag, | | | |

(Continued on following page)

B.-- For Explanation of Abbreviations, see Item 1

| ARTICLES (See Item 38) | | MIN C. L. WT. Pounds | Rates in Cents per 100 Pounds (Except as noted) | |
|--|--|-------------------------------|--|--|
| | | | TO Points taking the following Group Rates (See Item 34) | FROM Points taking RATE BASIS 1 (See Item 35) L. C. L. C. L. |
| Petroleum Cracking, Distilling or Refining Cylinders, Dephlegmators or Reaction Chambers, iron or steel, with walls not less than 1/2 inch in thickness, N. O. S., Piling Cores or Mandrels, N. O. S. (Subject to Item 612), Pinions, | Signals, road traffic, light flashing, in crates or loose and braced in car, Signals, sound warning, N. O. I. B. N., in crates, Smoke Stacks, Stands, washer, Stations (air or water), auto mobile, curb, iron or steel, Steerers, ship, | 30 000 Subject to Item 606 | A B C C 1 D E F, G, H, I J | 264 233 223 212 201 191 189 |
| Pipe Fittings, viz.: Cocks or Valves, including Gate Valves, N. O. I. B. N., iron or steel, not plated, or iron or steel body, not plated, or Parts thereof, Plates (screens), paper or pulp mill, brass, bronze or copper, in boxes, Poles, trolley, with or without attachments, Pots, slag, Pumpers, (but not shafting pulleys), weighing each 100 lbs. or more, loose or in packages, Pumps, hand or windmill, including Beer, Chain or Elevator Bucket, Ham Curing, Link Belt Box Water Elevator, Measuring, Stoneware or Wooden (Suction) Pumps, but exclusive of air pumps, Pumps, measuring, hand, Racks, test bottle (Subject to Item 612), Rams, hydraulic, Reactors, Registers, air, oil burner, iron or steel (Subject to Note 11), Relays, switch, Rings (piston), metallic, Rolls, bending, Rolls, flour, paper or rubber mill, in packages as prescribed (also loose when so provided) in current Western Classification, Samplers and (Stirrers, milk, Savers, milk or cream, Scales, butter, Scales, milk weighing, Scrapers, hydraulic lift, Screens, paper or pulp mill, brass, bronze or copper, in boxes, Sets, baking pan, consisting of two or more Baking Pans strapped together in sets by band iron or steel, nested in bundles, each set in nest to project above next lower set not more than one-half its height, Sheaves (not shafting sheaves), weighing each 100 lbs. or more, loose or in packages, Signals, railway crossing sound warning, K. D., in bundles, | * Sterilizers, milk bottle or can (Subject to Item 612), * Strainers, curd, Tanks, digester, pulp or paper mill, set up or in set up sections, Tanks, extra Parts of articles provided for in this item (Subject to Item 612), Tanks, oil, plate or sheet iron or steel, U. S. standard gauge No. 17 or thinner, with hoods, Tanks, oil, plate or sheet iron or steel, U. S. standard gauge No. 16 or thicker, with equipment (Subject to Note 7), Tanks, oil cabinet, iron or steel (Oil Tanks combined with iron or steel or wooden cabinets), with or without pumps, Tanks, oil, portable, with wheels, iron or steel, with or without pumps, Tanks, oil, iron or steel, wood covered, with or without pumps, * Tanks, paraffining (Subject to Item 612), * Tanks, refrigerator, cream (Subject to Item 612), Tape, friction or insulating (See Item 3706), * Thermostats or * Thermodynamic Valves, in boxes (Subject to Item 613), Tools, electric or pneumatic, or Parts thereof, Trucks (motor-car), electric, Trucks or Tractors, or Trucks and Tractors combined, platform or warehouse, Trucks (non-self-propelling) or extra Parts thereof, Turn-tables, other than railway car, locomotive or talking machine, Units (radio power for receiving sets), including connections for same (except bulbs), crated, Valves (including Bibbs, Cocks and Faucets), other than iron, | 40 000 Subject to Item 606 | A, K B, L C, C-1, M D E F, G, H, I J | 213 196 187 178 169 161 143 |
| | Wheels (iron gear), Wheels (iron sprocket), Wheels (propeller), * Wire, brass, bronze or copper, covered, insulated or plain, without connections, in coils or on reels (Subject to Item 612), Wringers, household washing machine, Machinery, sugar-making, consisting of the following articles (Subject to Note 4): Buckets, Chain, elevator, Collectors, lime dust, Coolers, sugar, Crystallizers, Danek Filter Presses, Economisers, Evaporators, Fans, Fittings, Frames, mud or juice, Granulators, Heaters, juice, Holds, sugar factory, Iron, punched and fitted Knives, beet cutter, Machines, centrifugal, Mixers, sugar, Pans, vacuum, Pipe (not conductor nor riveted), iron, Plates, press, Points, drive well, Rolls, sugar mill, Scales, beet, automatic, Tanks, blow-up, Tanks, boiler, feed or water, Tanks, carbonation, Tanks, molasses storage, Tubing, heating or evaporating, Wheels, beet, Worms, beet, | | | |

(Concluded on following page)

ates are subject to Item 120

B.—For Explanation of Abbreviations, see Item 1.

S. C. S. C. No. 9
R. C. W. C. No. 11.
C. W. C. No. 1.
C. C. W. C. No. 17.
P. U. C. M. F. O.
No. 4.
C. Idaho-W. C. No. 16.
C. O. C. No. 57.
C. W. C. No. 15.
C. I. C. No. 219.
C. O. C. No. 57.
C. I. C. No. 112.
C. W. C. No. 9.
C. Docket 19060.
C. No. 5.
P. U. C. O. C. No. 57.
C. Md.-O. C. No. 57.
P. U. C. O. C. No. 57.
P. U. C. W. C. No. 14.
C. W. C. No. 13.
C. Mo.-O. C. No. 57.
C. Mo.-S. C. No. 8.
C. Mo.-W. C. No. 17.

P. S. C. Mo. I. C. No. 50
Mont. R. C. W. C. No. 11
N. S. R. C. W. C. No. 11
P. S. C. N. W. C. No. 13
N. H. P. S. C. O. C. No. 57
P. U. C. N. J. O. C. No. 57
S. C. C. N. M. W. C. No. 15
P. S. C. N. Y. O. C. No. 57
N. Y. T. C. O. C. No. 57
N. D. R. C. W. C. No. 1
Ohio O. C. No. 57.
C. C. Okla. W. C. No. 15.
P. U. C. Ore. W. C. No. 8
Pa. P. U. C. O. C. No. 57.
R. I. P. U. C. O. C. No. 57.
R. C. T. W. C. No. 13.
P. S. C. Utah W. C. No. 14
V. C. C. O. C. No. 57.
V. C. C. S. C. No. 26.
V. P. S. C. O. C. No. 57.
W. D. P. S. No. 9.
P. S. C. W. Va. O. C. No. 57.
P. S. C. Wyo. W. C. No. 16.

(For State Cancellations, see page i.)

Agent, A. H. Greenly's I. C. C.-O. C. No. 57.
Agent, E. H. Dulaney's I. C. C. No. 80.
Agent, R. C. Fyfe's I. C. C. No. 26.
Agent, R. A. Sperry's I. C. C. No. 429

(Cancels A. H. Greenly's I. C. C. O. C. No. 56, E. H. Dulaney's I. C. C. No. 71, R. C. Fyfe's I. C. C. No. 25; R. A. Sperry's I. C. C. No. 385, and Supplements.)

A. H. GREENLY'S M. F. I. C. C.-O. C. No. 4

E. H. DULANEY'S M. F. I. C. C. No. 9

R. C. FYFE'S M. F. I. C. C. No. 4

R. A. SPERRY'S M. F. I. C. C. No. 9

(Cancels A. H. Greenly's M. F. I. C. C. O. C. No. 3, E. H. Dulaney's M. F. I. C. C. No. 7, R. C. Fyfe's M. F. I. C. C. No. 3, R. A. Sperry's M. F. I. C. C. No. 4, and Supplements.)

C. T. C. O. C. No. 57. C. T. C. S. C. No. 21.

C. T. C. W. C. No. 24.

(Cancels A. H. Greenly's C. T. C. O. C. No. 56, R. C. Fyfe's C. T. C. W. C. No. 2, E. H. Dulaney's C. T. C. S. C. No. 22, and Supplements.)

S. B. O. C. No. 13. S. B. W. C. No. 14.

S. B. S. C. No. 31. S. B. I. C. No. 10.

(Cancels A. H. Greenly's S. B. O. C. No. 12, E. H. Dulaney's S. B. S. C. No. 29; R. C. Fyfe's S. B. W. C. No. 13; R. A. Sperry's S. B. I. C. No. 9, and Supplements.)

S. B. I. O. C. No. 5. S. B. I. W. C. No. 7.

S. B. I. S. C. No. 11

(Cancels A. H. Greenly's S. B. I. O. C. No. 4, E. H. Dulaney's S. B. I. S. C. No. 9, R. C. Fyfe's S. B. I. W. C. No. 6, and Supplements.)

NSOLIDATED FREIGHT CLASSIFICATION No. 13

(SOUTHERN CLASSIFICATION No. 57)
(WESTERN CLASSIFICATION No. 68) (ILLINOIS CLASSIFICATION No. 21)

Official Classification No. 56; Southern Classification No. 55; Western Classification No. 67, and Illinois Freight Classification No. 20, and Supplements)

Applies on Freight Traffic covered by tariffs issued subject to either the Official Classification, Southern Classification, Western Classification, or Illinois Classification, as such tariffs may provide.

ED APRIL 20, 1939

EFFECTIVE JUNE 5, 1939

(Except as otherwise provided herein)

Issued under the terms of Rule 1 of Tariff Circular No. 30, authorized under Special Permission of the Interstate Commerce Commission No. 128926 of September 5, 1933, as amended.

Showing the correction of Fourth Section figures resulting from changes in this classification (or these classifications).

and filed with the following Commissions by A. H. Greenly, E. H. Dulaney, R. C. Fyfe and R. A. Sperry, Agents, only the indicated parties named herein:

Interstate Commerce Commission.

Board of Transport Commissioners for Canada.

United States Maritime Commission.

Alabama Public Service Commission.
Arizona Corporation Commission.
Arkansas Corporation Commission.
Railroad Commission of the State of California.
Public Utilities Commission of Colorado.
Public Utilities Commission of Connecticut.
Public Utilities Commission of Idaho.
Illinois Commerce Commission.
Indiana Public Service Commission.
Iowa State Commerce Commission.
State Corporation Commission of Kansas.
Railroad Commission of Kentucky.
Maine Public Utilities Commission.
Maryland Public Service Commission.
Massachusetts Department of Public Utilities.
Michigan Public Utilities Commission.
Minnesota Railroad and Warehouse Commission.
Public Service Commission of Missouri.
Board of Railroad Commissioners of Montana.
Nebraska State Railway Commission.

Public Service Commission of Nevada.
New Hampshire Public Service Commission.
New Jersey Public Utilities Commission.
State Corporation Commission of New Mexico.
State of New York Public Service Commission.
State of New York Transit Commission.
North Dakota Board of Railroad Commissioners.
Ohio Public Utilities Commission.
Corporation Commission of Oklahoma.
Public Utilities Commissioner of Oregon.
Pennsylvania Public Utility Commission.
Rhode Island Public Utilities Commission.
Railroad Commission of Texas.
Public Service Commission of Utah.
Vermont Public Service Commission.
Commonwealth of Virginia State Corporation Commission.
Department of Public Service of Washington.
West Virginia Public Service Commission.
Public Service Commission of Wisconsin.
Public Service Commission of Wyoming.

A. H. GREENLY,
Agent for lines in
Official Classification
1 Liberty Street,
NEW YORK, N. Y.

E. H. DULANEY,
Agent for lines in
Southern Classification
101 Marietta Street,
ATLANTA, GA.

R. A. SPERRY,
Agent for lines in
Illinois Classification
136 Chicago Union Station
CHICAGO, ILL.

R. C. FYFE,
Agent for lines in
Western Classification
202 Chicago Union Station
CHICAGO, ILL.

Copyright, 1939, by R. C. Fyfe.

RULE 19.

Ratings on articles K. D. (knocked down) apply only when the article is taken apart in such manner as to materially reduce space occupied. Merely separating article into parts without reducing bulk does not constitute knocking down or entitle article to K. D. rating.

RULE 20.

Parts or pieces constituting a complete article, received as one shipment, on one bill of lading, will be charged at the rating provided for the complete article.

RULE 21.

Section 1. Unless otherwise provided the terms "nested" or "nested solid" mean:

Nested: Three or more different sizes of the articles must be enclosed each smaller within the next larger or that three or more of the article must be placed one within the other so that each upper article will not project above the next lower article more than one-third of its height.

Nested Solid: Three or more of the articles must be placed one within or upon the other so that the outer side surfaces of the one above will be in contact with the inner side surfaces of the one below and each upper article will not project above the next lower article more than one-quarter inch.

Section 2. The provisions shown in Section 1 of this Rule prohibit the application of "nested" ratings when articles of different name or material, whether grouped in one description or shown separately, are nested or enclosed one within the other.

RULE 22.

Section 1. The term "in the rough" used in specifications for wooden articles applies when such articles are not further manufactured than sawed, hewn, planed or bent.

Section 2. The term "in the white" applies to wooden articles when farther manufactured than provided for in Section 1, and may include one coat of priming, but does not apply when the articles have been painted or varnished.

Section 3. The term "finished" applies to wooden articles after they have passed the stage of manufacture provided for in Section 2.

RULE 23.

Section 1. Carriers' agents must not act as agents of shippers or consignees for the assembling or distribution of C. L. or L. C. L. freight.

Section 2. Carriers' agents at points of shipment must not accept freight to be carried at C. L. ratings or rates for distribution by two or more parties by carriers' agents at points of destination.

Section 3. Except as otherwise provided in Section 2 of Rule 14, agents at points of destination must deliver freight carried at C. L. ratings or rates to one consignee only, and must not accept orders from shippers or consignees calling for split deliveries according to brands, marks, sizes or other identification of packages.

Section 4. Except as otherwise provided in Section 2 of Rule 14, if at the request of the owner of the property or his authorized agent, a C. L. shipment is delivered to more than one consignee, L. C. L. ratings or rates will be applied on the entire shipment, except that the portion delivered to any one consignee will be subject to Rule 15, Section 1.

RULE 24.

Section 1. When C. L. freight, the authorized minimum weight for which is 30,000 lbs. or more, is received in excess of the quantity that can be loaded in or on one car, the following shall apply:

*The shipment must be made from one station, by one shipper, in one calendar day running from midnight to midnight, on one shipping order or bill of lading, to one consignee and destination.

Each car, except car carrying the excess, must be loaded as heavily as loading conditions will permit, to the marked capacity of car if practicable, and each car so loaded charged at actual or authorized estimated weight, subject to established minimum C. L. weight, and at C. L. rate or rating applicable.

The marked capacities of cars are shown in Agent G. P. Conard's I. C. C.-R. E. R. No. 250, C. T. C.-R. E. R. No. 250, supplements thereto and resurveys thereof.

Section 2. The excess over quantity that can be loaded in or on one car shall be charged:

If loaded in one closed car, at actual or authorized estimated weight, and at C. L. rate or rating applicable on entire shipment.

If loaded on one open car, at actual or authorized estimated weight and at C. L. rate or rating applicable on entire shipment, subject to a minimum charge of 4,000 lbs. at first class rate.

(Continued)

Definition of the term "K D"

Parts or pieces constituting a complete article.

Definition of "nested" or "nested solid".

"Nested" ratings not to apply

Wooden articles "in the rough"

Wooden articles "in the white".

Wooden articles "finished"

Carriers' agents not to act as agents of shippers or consignees.

Ratings to apply when at owner's request carloads are delivered to more than one consignee.

Freight in excess of full carloads.

Conditions of shipment.

Loading of cars

Charges for excess



THIS SHIPPING ORDER

must be legibly filled in, in ink, in unobscured pencil, or in carbon and retained by the Agent.

Shipper's No. _____

Agent's No. _____

The Atchison, Topeka and Santa Fe Railway Company

COAST LINES

Los Angeles, Calif 10/5/1940

RECEIVE, subject to the classifications and tariffs in effect on the date of the issue of this Shipping Order.

193

From

GLOBE FREIGHT SERVICE

property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown) marked, consigned, and delivered to the consignee by the carrier, the carrier agrees to carry the same to the place of destination, if on its own road or through water line, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed as to each carrier that every service to be performed hereunder shall be performed by the carrier named in the bill of lading, and not prohibited by law, whether printed or written, herein contained, including the conditions on back hereof, which are hereby agreed to by the shipper and accepted by the carrier.

Shipped to _____
 Destination CHICAGO... ILLINOIS State of _____ County of _____
 Route ATSF TRANS 138 ALL THEY WAY
 Delivering Carrier ATSF... SEE BELOW Car Initial IC 176257 Car No. _____

| No. Page | DESCRIPTION OF ARTICLES, SPECIAL MARKS, AND EXCEPTIONS | Weight (Sub. to Correction) | Class or Rate | Check Col. | Signature of Consignor |
|----------|--|-----------------------------|---------------|------------|------------------------|
| 1 | Carload Machinery & Auto Metal Parts as described in Item 3060 & all items covered by Item 3060 FORB | | EB T | | |
| | ((((DETAILED LIST TO FOLLOW))) | | | | |
| | S L & C | | | | |
| | 1 50 foot car ordered; 2 smaller cars furnished by RR | | | | |

T O P... IC 176257 @ 14TH STREET.. ATSF.. CHGO.. TO UNLOAD
 PENNOYER MERCHANTS TRANSFER CO... CHGO...

SPECIAL BRACING & BLOCKING: DO NOT TRANSFER..

Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.

GLOBE FREIGHT SERVICE

Per 825 East 62nd Street

Permanent postoffice address of shipper

Agent must detach and retain this Shipping Order and must sign the Original Bill of Lading

EXHIBIT B 25 2

30 THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY-COAST LINES 30

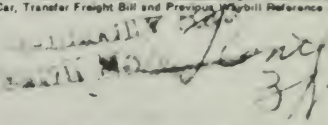
FREIGHT WAYBILL

To be used for Single Consignments, Carload and Less Carload

| | | | | | | | | |
|---|--|--------------------------|--|------------|---------------|-----------------------|------------------------|-----------|
| TRAIN SYMBOL E | | RECEIVED DATE TIME | WEIGHT IN TONS | | LENGTH OF CAR | | MARKED CAPACITY OF CAR | |
| STATION SYMBOL LA. 719 | | | Gross 32 | Tare 10 | Ordered | Furnished | Ordered | Furnished |
| TOP THIS CAR AT | | | DATE OCT 5 1940 | | | WAYBILL No. AT&SF- | | |
| CAR INITIALS AND NUMBER CMSTPP 87164 | | | C. L. Transferred to or L. C. L. Leading No. | | | DATE | | |

| | | | | | | | |
|-------------------------|--|-------|--|--|--|-------|--|
| STATION CHICAGO ILLS | | STATE | | FROM STATION RR 121+1 LOS ANGELES CALIF | | STATE | |
|-------------------------|--|-------|--|--|--|-------|--|

| | | | | | | | |
|---------------------------|--|--|--|--|--|--|--|
| CONIGNED TO STATION STATE | | FULL NAME OF SHIPPER and, for C. O. D. Shipments, the Street and Post Office Address, and Invoice Number if Available. GLOBE FREIGHT SERVICE SHPRS LAC 564 565 | | | | | |
|---------------------------|--|--|--|--|--|--|--|

| | | | | | | | |
|---|--|---|--|--|--|--|--|
| THORITY UTE (Show each Junction and Carrier in Route Order to Destination of Waybill). | | Show "A" if Agent's Routing or "B" if Shipper's Routing | | Origin and Date, Original Car, Transfer Freight Bill and Previous Waybill Reference and Routing when Rebill. | | | |
| BELEN AT&SF | | | |  | | | |

| | | | | | | | |
|---|--|--|--|--|--|--|--|
| INSIGNEE AND ADDRESS GLOBE FREIGHT SERVICE C-O U S ELEC MOTORS INC 1500 S WESTERN C-O MIDLAND WAREHOUSE CO 1500 SO WESTERN C-O AT&SF DELIVERY | | WEIGHED CONTAINER FREIGHT WEIGHED AT AT | | | | | |
|---|--|--|--|--|--|--|--|

| | | | | | | | |
|-----------------------------|--|-------------------------|--|--|--|--|--|
| T&SF TRAIN 133 ALL THEY WAY | | GROSS 63480 | | | | | |
| TARE | | 44000 | | | | | |
| ALLOWANCE | | 19480 | | | | | |
| NET | | WEIGHING AND INSPECTION | | | | | |

| | | | | | | | |
|--|--|--|--|--|--|--|--|
| L. C. L. Traffic Transfer Stamps To Be Shown in This Space | | Indicate by symbol in column provided * how weights were obtained for L. C. L. Shipments only. R—Railroad Scale. S—Shipper's Tare Weight. E—Estimated—Weight and Carload. T—Tare Classification or Minimum. | | | | | |
|--|--|--|--|--|--|--|--|

| DESCRIPTION OF ARTICLES AND MARKS | ★ | WEIGHT | RATE | FREIGHT | ADVANCES | PREPAID |
|---|---|-------------------------|------|-----------|----------|---------|
| C-L MACHINERY & AUTO METAL PARTS AS DESCRIBED IN ITEM 3060 & ALL ITEMS COVERED BY ITEM 3060 TCFB EB TARIFF 3-N DEW [REDACTED] UBL SL&C [REDACTED] | | 19480 27860 47340 | | 178842.65 | | |
| 50 FT CAR ORD AND 2 SMALLER CARS FURN RR COM PART LOT IN IC 176257 COVERED BY L A CALIF TO CHICAGO ILLS WB AT&SF-6714 10-5-40 | | | | 275 1362 | | |

| | | | | | | | | | | | |
|--|--|--------|--|------|--|---------|--|----------|--|---------|--|
| SPECIAL BRACING & BLOCKING DO NOT TRANSFER UBL | | WEIGHT | | RATE | | FREIGHT | | ADVANCES | | PREPAID | |
| | | | | | | | | | | | |

| | | | | | |
|----------------|--|---|--|---|--|
| First Junction | | Outbound Junctions and Will Show Justified in Space and Order Provided. | | Destination Agent Will Stamp Station Name and Date Reported | |
| CHICAGO ILLS | | CHICAGO ILLS | | OCT 18 1940 CHICAGO | |

30 THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY-COAST LINES 30

FREIGHT WAYBILL

To be used for Single Consignments, Carload, and Less Carload

| | | |
|-----------------------------|----------------|-------------------------------|
| S A T A M 12 | TRAIN SYMBOL | TR 36 11 A L 1 |
| | STATION SYMBOL | |
| | L.A. 720 | |
| | | |

| | | | | | | | |
|--|--|------|-----|--------------------|----------------------------|------------------------|-----------|
| STOP THIS CAR AT AT&SF 14TH STREET CHICAGO ILLS FOR PARTIAL UNLOADING | WEIGHT IN TONS | | | LENGTH OF CAR | | MARKED CAPACITY OF CAR | |
| | Gross | Tare | Net | Ordered | Furnished | Ordered | Furnished |
| CAR INITIALS AND NUMBER IC 176257 | C. L. Transfer to or L. C. L. Loading No. 37 14 | | | DATE OCT 5 1940 | WAYBILL No. AT&SF- 6714 | | |

| | | | | | |
|--------------------|---------|-------|-------------------------------------|---------|-------|
| TO CHICAGO ILLS | STATION | STATE | FROM RR, 12141 LOS ANGELES CALIF | STATION | STATE |
|--------------------|---------|-------|-------------------------------------|---------|-------|

| | | | |
|----------------|---------|-------|---|
| RECONSIGNED TO | STATION | STATE | FULL NAME OF SHIPPER and, for C. O. D. Shipments, the Street and Post Office Address, and Invoice Number if Available. GLOBE FREIGHT SERVICE |
|----------------|---------|-------|---|

| | | |
|---|---|--|
| AUTHORITY ROUTE (Show each Junction and Carrier in Route Order to Destination of Waybill) BELEN AT&SF | Show "A" if Agent's Routing or "S" if Shipper's Routing | Origin and Date, Original Car, Transfer Freight Bill and Previous Waybill References and Routing when Rebillled. OCT 1940 |
|---|---|--|

| | |
|---|---|
| CONSIGNEE AND ADDRESS GLOBE FREIGHT SERVICE C-O U S ELECTRICAL MOTORS INC 1500 S WESTERN C-O MIDLAND WAREHOUSE CO 1500 S WESTERN | WEIGHED GROSS TARE NET 741.60 463.00 278.60 |
|---|---|

| | |
|--|--|
| FINAL DESTINATION AND DELIVERY ROUTING AT&SF TRAIN 133 ALL THEY WAY | INSTRUCTIONS (Regarding Tcing, Ventilation, Heating, Milling, Weighing, Etc. If load, Specify Whom Icing Should be Charged). STOP IN TRANSIT FOR PARTIAL UNLOADING AT 14TH STREET AT&SF CHICAGO ILLS TO UNLOAD BY PENNOYER MERCHANTS TRANSFER CO. |
|--|--|

| | | |
|---|--|--|
| On L. C. L. Traffic Transfer Stamps To Be Shown In This Space | NET | Indicate by symbol in column provided * how weights were obtained for L. C. L. Shipments only. R—Railroad Scale. S—Shipper's Tare Weight. E—Estimated—Weight and Correct. Y—Yard Classification or other. |
| DESCRIPTION OF ARTICLES AND MARKS C-L MACHY & AUTO METAL PARTS | ★ WEIGHT OCT 5 1940 WEIGHT AND CHARGES ON CHICAGO ILLS WB AT&SF- 6713 --- COLLECT --- | ADVANCES OCT 5 1940 LA CAL TO 10-5-40 |

| | |
|--------------------------------------|--|
| PART LOT TO CMSTPP 87164 | SPECIAL BRACING & BLOCKING DO NOT TRANSFER |
| UBL SL&C CAR ARRIVE | DATE..... HOUR..... CORWILL ILL |
| DESTINATION AGENT'S FREIGHT BILL No. | DESTINATION AGENT WITH Stamp Marked Receipt, Name and Address OCT 16 1940 CHICAGO |

| | | | |
|----------------|---|----------------|-----------------|
| First Junction | Outbound Junction Agent and Show Junction Stamps in Space and Order Provided. S. F. Ry. Co. OCT 12 1940 B. RECEIVED CHICAGO, ILL. | Third Junction | Fourth Junction |
|----------------|---|----------------|-----------------|

STATION RECORD

Form 1875-A Regular



Consignee **GLOBE FRT SERVICE C/O U S ELECTRICAL MOTORS INC** OCT 14/40
 Destination **1500 SO WESTERN AVE CHICAGO** 1999
 Route **CHICAGO**
 Point of Origin to Destination

The Atchison, Topeka and Santa Fe Railway Co.

2

| | | | |
|---|---|-----------------------------|------------------------------|
| Way-Billed From | Way-Bill Date and No | Full Name of Shipper | Original Car Initials and No |
| Original Point and Date of Shipment | Connecting Line Reference | Previous Way-Bill Reference | |
| NUMBER OF PACKAGES, ARTICLES AND MARKS | | WEIGHT | RATE |
| U MACHY & AUTO METAL PARTS AS DESCRIBED IN ITEM 3060 AND ALL ITEMS SHIPPED BY ITEM 3060 TOPEKA TARIFF 3/N 176257 SHIPPED BY LOS ANG CALIF TO CHGO ILL MO ATSF 19480 WD 6714 PARTIAL UNLUG 27860 AT CHGO 10/5/40 SPECIAL 47340 178 84265 BRACING & BLKG DO NOT TRANSFER 1302 85567 | | | |
| LOCATION | (This is a copy of the freight bill and is not a receipt for transportation charges paid) | | |
| DELIVERY | G 63480 T 44000 NET 19480 VR TOTAL TO COLLECT | | |
| BY | | | |

STATION RECORD

Form 1875-A Regular



Consignee **GLOBE FRT SERVICE**
 Destination **C/O U S ELECTRICAL MOTORS INC**
 Route **1500 SO WESTERN AVE CHICAGO**
 Point of Origin to Destination

Chicago, IL

FREIGHT
BILL NO

1999

The Atchison, Topeka and Santa Fe Railway Co.

2

| | | | |
|--|---|---|------------------------------|
| Way-Billed From | Way-Bill Date and No | Full Name of Shipper | Original Car Initials and No |
| Original Point and Date of Shipment | Connecting Line Reference | Previous Way-Bill Reference | |
| NUMBER OF PACKAGES, ARTICLES AND MARKS | | WEIGHT | RATE |
| U MACHY & AUTO PARTS PART LOT TO CUSTP&P 87164 SPECIAL BRACING & BLKG DO NOT TRANSFER UBL SLC G 74160 T 463 NET 27860 VR | | WGT & CHGS ON LA CALIF TO CHGO ILLS WD ATSF 6713 10/5/40 | COLLECT |
| LOCATION | (This is a copy of the freight bill and is not a receipt for transportation charges paid) | | |
| DELIVERY | TOTAL TO COLLECT | | |
| BY | | | |

28

Original paid freight bills should accompany all claims for overcharge, loss or damage.
Charges payable in advance.

Form 1881 Regular

CONSIGNOR.

PREPAID FREIGHT BILL

Santa Fe **LOS ANGELES, CAL.,**

19

GLOBE FRT SERV

Via **OCT 15 1940**

FREIGHT
BILL No. 3157 J

To The Atchison, Topeka and Santa Fe Railway Company—Coast Lines, Dr.

| WAYBILL | | CAR | | FROM | | CONSIGNEE AND DESTINATION | | |
|-----------------------------|-------------------|----------|----------------|-------------------|------|---------------------------|----------|-------|
| DATE | NUMBER AND SERIES | INITIALS | NUMBER | LOS ANGELES, CAL. | | GLOBE FRT SERV | | |
| OCT 15 | 1940 AT | 6913 | CMSTP 87164 IC | 176257 | | CHGO ILL | | |
| FOR FREIGHT AND CHARGES ON | | | | WEIGHT | RATE | FREIGHT | ADVANCES | TOTAL |
| CL MACHRY ETC | | | | | | | | |
| MIL 87164 63480 44000 19480 | | | | | | | | |
| IC 176257 74160 46300 27860 | | | | 47340 | VAR | 85567 | | |
| TO FULLY PREPAY | | | | | | | | |
| RECEIVED PAYMENT | | | | (((COPY))) | | TOTAL | | |
| | | | | Agent | | TOTAL TO COLLECT | | 85567 |

This form of Freight Bill to be used by FORWARDING AGENTS, and only in cases where shipments are verified PREPAID.

30 The Atchison, Topeka and Santa Fe Railway Company—Coast Lines 30

PREPAID ONLY WAYBILL

INSTRUCTIONS GOVERNING THE USE OF THIS FORM.

Use this waybill only to transfer credits to another station as set forth in FORM 500, INSTRUCTIONS TO STATION FREIGHT AGENTS. Make a separate prepaid only waybill for each adjustment even where several adjustments are made on the same revenue waybill. Describe clearly each consignment adjusted and also where the revenue waybill contains more than one consignment, write the number of that consignment in the space "Full Name of Shipper, Etc." When reference to revenue waybill is not available, enter in the "Remarks" column any facts which will assist the receiving agent in finding the revenue waybill. If the receiving agent refunds the prepaid, receipt must be taken in space set aside therefor; if he applies the prepaid against an uncollected item he will fill out and sign the certificate hereon. When unable to refund the amount of the prepaid or to credit it to the station, enter the amount thereof in the "Freight" column of the prepaid only. Then report the Freight in the "Freight" column of Form 309 and the Prepaid in the "Prepaid" column of that form.

| | | | | | |
|--|--|---------------------------|--|------------------------------|--|
| CAR INITIAL AND NUMBER (As Shown on Revenue Waybill) CMSTP&P 87164 6 176257 | | DATE OCT 15TH 1940 | | WAYBILL No. ATSF 6913 | |
| STATION | | STATE | | STATE | |
| CHICAGO ILL | | 12141 | | 61 LOS ANGELES CALIF | |

Transfer Credit Account **LOS ANGELES** Waybill No. **6713-14** 10 5 40 Freight Bill No. _____ Date _____ 19__

| ABOVE WAYBILL READS | | | | | | |
|---|--------|-------|---------|----------|---------|--|
| ARTICLES | WEIGHT | RATE | FREIGHT | ADVANCES | PREPAID | |
| LOBE FREIGHT SERVICE MACHY ETC IL 87164 GROSS 63400 TARE 44000 NET 19400 C 176257 GROSS 74160 TARE 46300 NET 27860 | 47340 | R 178 | 842.65 | | | |

| ABOVE WAYBILL SHOULD READ | | | | | | |
|---|--------|------|---------|----------|---------|--|
| ARTICLES | WEIGHT | RATE | FREIGHT | ADVANCES | PREPAID | |
| LOBE FREIGHT ARE PENNOYER CHICAGO ILL 3628 DO | DO | VAR | 355.67 | PAID | 355.67 | |

NOTE: DO NOT REPORT ABOVE FIGURES ON FORM 306 OR 309.

| REMARKS | |
|-----------------|--|
| PAID ON CHGO FB | |

Received from _____ Agent _____
 and on shipment herein described. _____
 19__

| CERTIFICATE | |
|--|--|
| I certify that I have applied the amount of the credit received by Prepaid Only Waybill against the uncollected Freight Bill Date 10/18/40 19__ Agent St. Louis | |

Payee Sign Here _____
 Destination Agent will stamp here in the date reported _____
 Agent will stamp here in the date received _____

NOV 2 1940 KTC
 NOV 4 1940 KTC
 OCT 22 1940 CHICAGO

FORM 1881 REGULAR

PREPAID FREIGHT BILL

Santa Fe

LOS ANGELES, CALIF., July 30 1940

Globe Freight Service

VIA

FREIGHT/
BILL NO. } AO-476

To The Atchison, Topeka and Santa Fe Railway Company—Coast Lines, Dr.

| WAYBILL | | CAR | | FROM | CONSIGNEE AND DESTINATION | | |
|--|-------------------|--------------|-----------------|-------------------------|------------------------------|------------------|---------|
| DATE | NUMBER AND SERIES | INITIALS | NUMBER | LOS ANGELES, CALIF. | Globe Freight Ser Chicago | | |
| 10-5-40 | ATSF 6713 | CMSTPP IC | 87164 176257 | | | | |
| FOR FREIGHT AND CHARGES ON | | | | WEIGHT | RATE | FREIGHT | TOTAL |
| Machy & Metal auto parts Lead car 27860 as 2nd car | | | | 30000 | | | |
| | | | | 19480 | | | |
| Cars appropriated. Protect Rule 24 | | | | 49480 | 2 12 Sws | 1048 98 13 02 | |
| | | | | | | | |
| RECEIVED PAYMENT | | | | TOTAL | | | 1062 00 |
| | | | | Paid | | | 855 67 |
| | | | | AGENT. TOTAL TO COLLECT | | | 206 33 |

This form of Freight Bill to be used by FORWARDING AGENTS, and only in cases where shipments are waybilled PREPAID.

GLOBE FREIGHT SERVICE Form 18, Regular—Small 37C-2446 100M-1-38 Western Edition 343 - 344.
Uniform Freight Bill of Lading, subject to service in U.S.A. and Western Hemisphere.
Classification territories, March 15, 1922, as amended August 1, 1926.

UNIFORM STRAIGHT BILL OF LADING—ORIGINAL Not Negotiable Shipper's No. _____
The Atchison, Topeka and Santa Fe Railway Company Agent's No. _____
COAST LINES

RECEIVED, subject to the classifications and tariffs in effect on the date of the issue of this Bill of Lading.
Los Angeles, Calif 7/8/39 193 From **GLOBE FREIGHT SERVICE**

Goods described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated below, which said consignee and company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery or destination, if on its own road or its own water link, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property, or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the rules and regulations prohibited by law, whether printed or written, herein contained, including the conditions on back hereof, which are hereby agreed to by the shipper and accepted for himself and his consignee.

Shipped to **GLOBE FREIGHT SERVICE & Pennoyer Merchants Transfer Co 742 W Polk St** (Mail or street address of consignee—For purposes of notification only.)

Origin **CHICAGO, Illinois** State of _____ County of _____

Santa Fe all the way NYC 151211 Seals 196635-636

Original Carrier **ATSF 14th St Delivery** Car Initial **PRR 57625** Car No. 196637-638

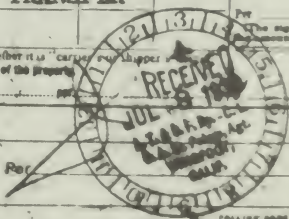
| DESCRIPTION OF ARTICLES, SPECIAL MARKS, AND EXCEPTIONS | | Weight (Net to Carriers) | Class or Rate | Check Ctl. | Subject to Section 7 of conditions, if this shipment is to be delivered to the consignee without recourse on the consignee, the consignee shall sign the following statement: The carrier shall not make delivery of goods hereon without payment of freight and other lawful charges. |
|---|--|--------------------------|---------------|------------|---|
| | | | | | |
| 1 Carload Machinery & Auto Metal Parts as described in Item 3050 & all Items covered by Item 3060, TCFB | | | | EB T | PREPAID THRU Received \$ _____ delivered in payment of the charges on the property described hereon. Agent or Cashier _____ The signature here and on window on back must be prepaid.) Charges Advanced _____ |
| !!!! DETAILED LIST TO FOLLOW !!!! | | | | | |
| 2 Wood Boxes Wet Storage Batteries, wt 331 lbs wt INOL | | | | | |
| !!!! LABEL REQUIRED FOR NYC 151211 !!!! | | | | | Received \$ _____ delivered in payment of the charges on the property described hereon. Agent or Cashier _____ The signature here and on window on back must be prepaid.) Charges Advanced _____ |
| S L & C | | | | | |
| 1 50 foot car ordered, 2 smaller cars furnished by | | | | | |
| SPECIAL BRACING & BLOCKING:::DO NOT TRANSFER | | | | | |

When goods are moved between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is a "through bill of lading" or a "local bill of lading." If the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.

Agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding _____

BE FREIGHT SERVICE Shipper _____ Agent _____
TRANSPORTATION & WAREHOUSE CO.

Permanent postoffice address of shipper _____



1

EXHIBIT "D"

In the District Court of the United States
Southern District of California

Central Division

No. 2384-BH

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,
Plaintiff,

vs.

DANIEL P. WHITE, an individual doing business as
GLOBE FREIGHT SERVICE,
Defendant.

OPINION

Appearances:

Jonathan C. Gibson, Esq.

M. W. Reed, Esq.

L. W. Butterfield, Esq.

William F. Brooks, Esq.

448 Kerckhoff Building

Los Angeles, California,

Attorneys for Plaintiff,

Arthur H. Glanz, Esq.

Theodore W. Russell, Esq.

111 West Seventh Street

Los Angeles, California,

Attorneys for Defendant.

This action was instituted by plaintiff against defendant to recover undercharges on 118 separate carload shipments made by defendant during the period of August,

1939 to February, 1941, which charges plaintiff contends must be collected in accordance with the lawfully published tariffs then in effect.

Like in the case of Atchison, Topeka and Santa Fe Railway Company v. Judson Freight Forwarding Company etc., No. 2265-BH of the files of this court, this day decided by me, the question for determination is whether the shipper should have been billed for two forty foot cars on each shipment instead of one fifty foot car. Originally, the shipper was billed on the theory that in each instance a fifty foot car had been ordered and that two forty foot cars had been furnished at carrier's convenience, under what is commonly known as the two for one rule. Thereafter, the carrier determined, after an investigation by the Interstate Commerce Commission, that the lawful tariff on each shipment had not been collected, hence this suit.

The parties have stipulated that the higher freight [33] charges claimed by plaintiff in each cause of action are lawfully applicable in the event the court shall find that two smaller cars were not lawfully substituted for a larger car ordered by the defendant in compliance with the tariff rules and regulations governing the substitution of two smaller cars for a larger one.

The facts disclose that all shipments went forward under Item 503 of Trans-Continental Freight Bureau East Bound Tariff No. 3, Series I. C. C. No. 1431, which in part provides:

“Except where specifically provided to the contrary in individual items of this tariff, carrier will furnish car of dimensions or weight carrying capacity ordered by shipper, but if carrier for its convenience furnishes car of different dimensions or weight carrying capacity, the following rules will govern. * * *

“When car of smaller dimensions or less weight carrying capacity is furnished, actual weight applies provided it is loaded to its full visible capacity or as heavily as loading conditions will permit; the balance of the shipment will be taken in another car at actual weight and carload rate, and the entire shipment will be subject to carload minimum weight applicable to the car of dimensions or weight carrying capacity ordered

(Subject to Notes 1 and 2) . . .”

The facts surrounding the circumstances under which the forty foot cars were furnished are best reflected by the testimony of the defendant, who in substance testified as follows:

He had been engaged in the freight forwarding business for about twenty-five years and had wide experience in the freight forwarding business, was and is generally familiar with the published tariffs, rates, rules and regulations. In April, 1937, he started his own freight forwarding business in Los Angeles at a location adjacent to the Wingfoot Station of carrier. He specialized in east-bound freight consisting principally of heavy machinery and automobile parts. Shortly after commencing business, in April or May, 1937, he talked to the agent of the carrier and made inquiry into the method of the operations of his competitors. The agent not being informed made inquiry and advised the shipper that the National Carloading Corporation was shipping under the so-called two for one rule. The shipper then asked if it “would be o. k. or satisfactory, under the tariff, if we could use the same loading rules as the other companies.” He stated he was familiar with Item 503 and that the rules and regula-

tions on loading equipment had to be followed and "that's why I wasn't [34] going to do anything, or take any advantage of any misinterpretation of the tariff. Before we started loading the forty foot cars I wanted to be sure the tariff authority was there." The agent of the carrier assured the shipper he could have two forty foot cars in place of the fifty foot car ordered and that the same would not be in violation of the published tariffs.

Thereafter, the shipper would usually order cars by telephone. When ordering cars, he would not specify the equipment, but simply advise the carrier "we want to load today." Thereupon two forty foot cars would be furnished. The shipper would prepare his own bill of lading and endorse thereon "1-50 foot car ordered; 2 smaller cars furnished by R. R."

In February 1941, the carrier discontinued the practice of furnishing two forty foot cars in lieu of one fifty foot car. The shipper vigorously protested the change and contended the tariff provisions had not been violated.

From the foregoing testimony of the shipper the following facts appear: That the shipper was familiar with the provisions of Item 503; that the shipper at no time ordered a fifty foot car; that the shipper was furnished two forty foot cars but was billed on the basis that one fifty foot car had been ordered, in accordance with an agreement between the parties; that the shipper knew when he advised the carrier he was ready to load that he would be furnished two forty foot cars; that the shipper acted in good faith and relied upon the representations of the agent of the carrier that the furnishing of two forty foot cars in lieu of one fifty foot car was not a violation of the published tariff provisions.

Shipper contended and offered evidence to the effect that carrier's convenience was subserved by the substitution of the smaller cars for the larger car. The evidence in this respect is conflicting. Suffice it to say that in the substitution of the smaller cars, no consideration was given to the carrier's convenience. Furthermore, It is not possible to visualize the exact conditions existing at the time of each shipment at this late date. The evidence does disclose that at all times the carrier had fifty foot cars available and readily accessible. [35]

It is further contended by the shipper that the substitution afforded him no advantage. The shipper wanted the smaller cars and was very vociferous when their use was denied him. These facts, coupled with the knowledge that he thereby had considerable additional floor space for loading, convinced me that the shipper gained an advantage and preferential treatment by the carrier.

It will be noted under Item 503, that the shipper is entitled to the equipment ordered and the carrier must comply with the order of the shipper and can only substitute other equipment for its own convenience. Under no circumstances would "carriers' convenience" come into play until an order had been placed for specified equipment. (See *Western Trunk Line Rate Increases*, 43 I. C. C. 481-493; *Noble v. Baltimore & Ohio Railroad Company*, 22 I. C. C. 432). If no order for specified equipment had been placed then the shipper would be liable for equipment furnished by carrier and used by shipper.

Under the testimony of the shipper it is apparent that no order was placed for specified type of equipment and as a result there would be no legal grounds upon which the shipper would be entitled to the benefits of said Item 503.

Shipper contends that the smaller cars were furnished for carrier's convenience. Shipper offered evidence to the effect that carrier's convenience not only included operating convenience, but it was a convenience to the carrier in meeting truck competition. This rule has no application in meeting competition. (*U. S. v. Chicago Heights Trucking Co.*, 310 U. S. 344). While the term "carriers' convenience" is one of long use, our reviewing courts never have had occasion to define said term. To me, the term signifies, as used in said Item 503, that before the carrier is justified in making a substitution, the car ordered must not be readily available and operatively advantageous for the carrier to furnish.

The testimony of the shipper demonstrates that no "carriers' convenience" was considered but that two forty foot cars were furnished under the guise that a fifty foot car had been ordered. The shipper knew that a fifty foot car had not been ordered. He knew that the smaller cars were being furnished pursuant to an arrangement with the agent of the carrier back in 1937. He knew when he prepared the bill of lading and endorsed thereon "1-50 ft. car ordered, 2 smaller cars furnished by R. R." that it was not a true statement. Assuming he believed he was [36] not violating any tariff provision and he was misled by the agent of the carrier, still he is chargeable with the knowledge and is liable for the legal rates.

In *McFadden v. Alabama Great Southern R. Co.*, 241 Fed. 562, the court said:

"In approaching this question we lay aside all considerations of conduct, intention, mistake and misunderstanding respecting the rate paid, for the law is very well settled that the Act to Regulate Commerce demands not only that the carrier shall charge but

that the shipper shall pay the legal rate. The contract between carrier and shipper is no longer a contract as to rates; it is merely a contract that the carrier will render transportation service when the shipper pays the legal rate. When the transportation is interstate, the interstate rate is the legal rate, and that rate must be demanded and paid, for both the carrier and shipper are charged with notice of it; and if a lesser rate is charged and paid, intentionally or innocently, recovery must be had against the shipper for the difference, in order that the policy of the law against unjust discrimination may be carried out."

Keogh v. Chicago & Northwestern Railway Company, 260 U. S. 156, states as follows:

"* * * The legal rights of a shipper as against carrier in respect to a rate are measured by the published tariff. Unless and until suspended or set aside, this rate is made, for all purposes, the legal rate, as between carrier and shipper. The rights as defined by the tariff cannot be varied or enlarged by either contract or tort of the carrier. *Texas & Pacific R. R. Co. v. Mugg*, 202 U. S. 242; *Louisville & Nashville R. R. Co. v. Maxwell*, 237 U. S. 94; *Atchison, Topeka & Santa Fe Ry. Co. v. Robinson*, 233 U. S. 173; *Dayton Iron Co. v. Cincinnati, New Orleans & Texas Pacific Ry. Co.*, 239 U. S. 446; *Erie R. R. Co. v. Stone*, 244 U. S. 332. And they are not affected by the tort of a third party. Compare *Pittsburgh, Cincinnati, Chicago & St. Louis Ry. Co. v. Fink*, 250 U. S. 577. This stringent rule prevails, because otherwise the paramount purpose of Congress—prevention of unjust discrimination—might be defeated."

In the case of *Pittsburgh, C., C. & St. L. Ry. Co. v. Fink*, 250 U. S. 577, 40 Sup. Ct. Rep. 27, it appears that on a shipment, the way bill specified the charges in the sum of \$15.00. The legal rate should have been \$30.00. The state court denied the carrier the right to recover on the undercharge, and the United States Supreme Court in reversing the state court said among other things:

“It was, therefore, unlawful for the carrier upon delivering the merchandise consigned to Fink to depart from the tariff rates filed. The statute made it unlawful for the carrier to receive compensation less than the sum fixed by the tariff rates duly filed. Fink, as well as the carrier, must be presumed to know the law, and to have understood that the rate charged could lawfully be only the one fixed by the tariff. When the carrier turned over the goods to Fink upon a mistaken understanding of the rate legally chargeable, both it and the consignee undoubtedly acted upon the belief that the charges collected were those authorized by law. Under such circumstances consistently with the provisions of the Interstate Commerce Act the [37] consignee was only entitled to the merchandise when he paid for the transportation thereof the amount specified as required by the statute. For the legal charges the carrier had a lien upon the goods, and this lien could be discharged and the consignee become entitled to the goods only upon tender or payment of this rate. *Texas & Pacific Railway Co. v. Mugg*, 202 U. S. 242, 26 Sup. Ct. 628, 50 L. Ed. 1011. The transaction, in the light of the act, amounted to an assumption on the part of Fink to pay the only legal rate the carrier had the right to charge or the consignee the right to pay. This may

be in the present as well as some other cases a hardship upon the consignee due to the fact that he paid all that was demanded when the freight was delivered; but instances of individual hardship cannot change the policy which Congress has embodied in the statute in order to secure uniformity in charges for transportation. *Louisville & Nashville Railroad Co. v. Maxwell*, 237 U. S. 94, 35 Sup. Ct. 494, 59 L. Ed. 853, L. R. A. 1915E, 665. In that case the rule herein stated was enforced as against a passenger who had purchased a ticket from an agent of the company at less than the published rate. The opinion in that case reviewed the previous decisions of this court, from which we find no occasion to depart."

In the recent case of *Union Pacific Railroad Company v. U. S.*, 313 U. S. 450-462, the court, through Mr. Justice Reed said:

"Violation of the commerce acts through receipt of advantages is to be tested by actual results, not by intention. * * * In fact, favoritism which destroys equality between shippers, however brought about, is not tolerated."

Mr. Justice Brandeis in *Louisville & Nashville Railroad Company v. Central Iron & Coal Company*, 265 U. S. 59-65 said:

"* * * The amount of the freight charges legally payable was determined by applying this tariff rate to the actual weight. Thus, they were fixed by law. No contract of the carrier could reduce the amount legally payable; or release from liability a shipper who had assumed an obligation to pay the charges. Nor could any act or omission of the carrier (except

the running of the statute of limitations) estop or preclude it from enforcing payment of the full amount by a person liable therefor."

Tariff provisions have the force and effect of a statute and cannot be deviated from under any circumstances. *Penn. Railroad Company v. International Coal Mining Co.*, 230 U. S. 184, 33 Sup. Ct. Rep. 893; *Louisville & Nashville Railroad Company v. Maxwell*, 237 U. S. 94; 35 Sup. Ct. Rep. 494; *Baldwin v. Scott County Milling Co.*, 307 U. S. 478; 13 C. J. S. 873-876; *Button v. Atchison, Topeka & Santa Fe Railway Co.*, 1 Fed. (2d) 709.

It is thus apparent that the defendant gained an advantage contrary to the laws governing the regulation of interstate carriers of commerce, and in particular 49 U. S. C. A., Sections 2, 3(1) and 6(7). This advantage he cannot retain but must pay the legal rate on the shipments involved notwithstanding it may [38] appear as a distinct hardship on the shipper.

I therefore find for the plaintiff on two grounds:

1. That Item 503 has no application to the shipments involved for the reason no specified equipment was ordered by the defendant.
2. That the two smaller cars were furnished pursuant to an agreement between the parties, notwithstanding the fact that the plaintiff, through its agents may have lulled shipper into believing that he would have to pay only on the larger car.

Plaintiff is directed to submit expeditiously proposed findings of fact, conclusions of law and judgment for signature.

Dated: April 22, 1943.

BEN HARRISON

Judge

EXHIBIT "E".

In the District Court of the United States

Southern District of California

Central Division

No. 2384-BH

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,
Plaintiff,

vs

DANIEL P. WHITE, an individual doing business as
GLOBE FREIGHT SERVICE,
Defendant.

FINDINGS OF FACT AND CONCLUSIONS OF
LAW.

The above entitled cause came on regularly for trial on the 4th day of February, 1943, before the Court sitting without a jury, a jury trial having been waived by the respective parties, Jonathan C. Gibson, Esq., and William F. Brooks, Esq., appearing as attorneys for plaintiff, and Arthur H. Glanz, Esq., and Theodore W. Russell, Esq., appearing as attorneys for defendant.

Whereupon evidence was introduced by and on behalf of the respective parties, and the evidence being closed the cause was submitted to the Court for consideration and determination upon briefs filed by the respective parties, and the Court, after due consideration thereon finds in favor of the plaintiff and against the defendant. Daniel P. White, an individual doing business as Globe Freight Service, and makes the following Findings of Fact and Conclusions of Law, to-wit: [40]

FINDINGS OF FACT.

I

Plaintiff was and is a corporation organized and existing under and by virtue of the laws of the State of Kansas, engaged in the operation of a line of railway as a common carrier of freight and passengers between the points described in paragraph I of its complaint, and having its principal office in this State at Los Angeles, California.

II

Defendant Daniel P. White, an individual doing business as Globe Freight Service, is a resident of and is engaged in business in the City of Los Angeles, County of Los Angeles, State of California.

III

The so-called carrier's convenience rule is set forth in Item 503 of Trans-Continental Freight Bureau East-Bound Tariff No. 3-Series, I. C. C. 1431, which, so far as material, reads as follows:

"Except where specifically provided to the contrary in individual items of this tariff, carrier will furnish car of dimensions or weight carrying capacity ordered by shipper, but if carrier for its convenience furnishes car of different dimensions or weight carrying capacity, the following rules will govern. * * *

"When car of smaller dimensions or less weight carrying capacity is furnished, actual weight applies provided it is loaded to its full visible capacity or as heavily as loading conditions will permit; the balance of the shipment will be taken in another car at actual [41] weight and carload rate, and the entire

shipment will be subject to carload minimum weight applicable to the car of dimensions or weight carrying capacity ordered. (Subject to Notes 1 and 2)

* * * * *

IV

Between August 26, 1939, and February 11, 1941, the defendant made 118 carload shipments of machinery, metal auto parts and miscellaneous commodities, originating on the line of railway of plaintiff and transported over said line and the lines of its connecting railroads.

V

The parties have stipulated that the freight charges paid at the time of shipment are the lawfully applicable charges under the tariffs then in force, in the event that the Court shall find that the defendant ordered one 50 foot car and was furnished two 40 foot cars at carrier's convenience pursuant to the requirements of the so-called two for one rule, but that the higher freight charges demanded in the complaint are lawfully applicable in the event the Court shall find that two smaller cars were not lawfully and properly substituted for the larger car ordered by the defendant in compliance with said rule.

VI

Before any of the shipments moved, the plaintiff and the defendant entered into an agreement to the effect that the defendant could have two 40 foot cars in place of a 50 foot car ordered whenever he so desired.

VII

Before each shipment was made, the defendant advised carrier that he wanted to load an outgoing shipment on the day [42] in question, but did not place an order for a single 50 foot car.

VIII

Upon receipt of advice from the defendant that he wanted to load an outbound shipment, the plaintiff in each instance furnished the defendant two 40 foot cars.

IX.

In the case of each shipment, the plaintiff, upon receipt of the defendant's notice that he wished to load an outbound shipment, gave no consideration to the question of carrier's convenience, as required by the tariff, but furnished two 40 foot cars pursuant to the provisions of the arrangement between the parties.

X.

The shipment in each case was covered by a bill of lading, which was prepared by the defendant and then submitted to, signed and accepted by the plaintiff, and subsequently returned to defendant.

Each bill of lading carried a recital substantially to the effect that a 50 foot car was ordered by defendant and that two 40 foot cars were furnished at carrier's convenience. This recital was in error, in that there had been no order for a 50 foot car, and in that the two 40 foot cars were not furnished at carrier's convenience because the subject of carrier's convenience was not considered by the carrier.

XI.

Defendant had been engaged in the freight forwarding business for about 25 years, during which time he had occupied responsible positions and was and is generally familiar with the published tariffs, rates. rules and regulations. [43]

XII.

Both plaintiff and defendant were familiar with the provisions of the carrier's convenience rule set forth in Item 503.

XIII

The purpose of the understanding and arrangement between the parties and of the substitution of two 40 foot cars for a single 50 foot car, was in each instance to enable the defendant to use two 40 foot cars in shipping his goods at the same rates and charges applicable to a single 50 foot car, instead of at the higher charges applicable to two 40 foot cars.

XIV

The substitution of the two 40 foot cars was for the convenience of the defendant and was desired by him, because it furnished him 80 feet of space for loading instead of 50 feet, which was a distinct advantage to the defendant in loading his goods.

XV

The defendant in the case of each shipment paid charges applicable to a single 50 foot car. He did not pay the charges applicable to the two 40 foot cars actually used, although such charges were properly applicable under the lawfully published tariffs of the plaintiff and its connecting carriers then in full force and effect.

XVI.

Plaintiff carrier had on hand in its yards at Los Angeles, the point of origin of the 118 shipments, at all times involved in this suit a sufficient supply of 50 foot freight cars suitable for the handling of shipments of machinery

and [44] could and actually did supply such cars to defendant whenever he signified a real desire for them.

XVII

All of the 118 shipments sued upon herein were delivered by destination carriers within three years prior to the commencement of this action.

XVIII

The two for one rule is not applicable, and plaintiff is entitled to judgment in the amount of the difference between the lawfully applicable charges on the 118 shipments and the amount actually paid. The amount of such difference is \$19,685.58, and plaintiff is entitled to judgment for that amount, with interest at seven per cent (7%) per annum from the several dates of shipment to the date of payment.

CONCLUSIONS OF LAW

I

The carrier's convenience rule found in Item 503 of Trans-Continental Freight Bureau East-Bound Tariff No. 3 authorizes the substitution of two smaller cars in lieu of a larger one at the same minimum rate only where (1) the larger car is actually ordered and (2) carrier's convenience would be served by the substitution of two smaller cars.

II

The determination whether carrier's convenience requires the substitution of two smaller cars for a single large one is the sole responsibility of the carrier and com- [45] pletely within its control. The rule contemplates that the carrier shall exercise its own discretion and

make its own determination of the requirements of its convenience.

III

The shipper is not, under the rule, vested with any responsibility for the determination of carrier's convenience.

IV

Substitution is not authorized by the rule for shipper's convenience but only for carrier's convenience.

V

The word "convenience" is used in the rule to give the carrier wide discretion in the operating problems of meeting shippers' orders for varying types of equipment, but it is not intended to give free play to the carrier's will, pleasure, or mere whim; nor is it intended as a device for giving inducements to a shipper in soliciting his traffic or provide a loop hole for favoritism.

VI

Under the rule, a carrier, before substituting other equipment for a car ordered, must balance its operating advantages and disadvantages. The substitution can be made only when the car ordered is not readily available and it is not operatively advantageous for the carrier to furnish such car. The substitution is not otherwise justified.

VII

The two for one rule does not become operative and is not effectively invoked until the carrier has received from the shipper a genuine and specific order for a car of a particular [46] size. If no such order is received, there is no basis on which a substitution may be predicated.

VIII

Since under the facts no specific order for a single 50 foot car was placed, the two for one rule was not successfully invoked.

IX

Since under the facts the carrier did not exercise the discretion vested in it by the tariffs to determine the existence of carrier's convenience, and failure to exercise such discretion was known to both parties, the two for one rule was not successfully invoked.

X

The Interstate Commerce Act requires every common carrier by railroad subject to its provisions to publish and file tariffs containing rates, charges, rules and regulations applicable to the transportation of freight, requires absolute and inflexible observance of such tariffs, and forbids any deviation or departure, however accomplished, whether directly or indirectly by some subterfuge or device. Such tariffs have the force and effect of law.

XI

Any recital, agreement or other provision contained in any bill of lading or other contract of transportation between railroad and shipper that is in any way contrary to the published tariffs is null and void.

XII

It is the right and duty of a railroad, upon discovering the existence of an undercharge, to bring and main-

tain [47] suit for recovery, and the public policy in favor of the strict enforcement of published tariffs precludes the railroad from being estopped from recovering the full tariff charges by the provisions of any bill of lading or other contract to which it may have been a party, or by any of its previous conduct in relation to the transaction.

XIII

The two for one rule of Item 503 was not properly invoked and was not applicable in connection with the shipments in suit. Its application in the collection of freight charges by the plaintiff from the defendant resulted in a failure to collect the full tariff charges lawfully applicable for the service actually performed and to the equipment actually used.

XIV

Plaintiff is entitled to judgment for \$19,685.58, representing the undercharges on the 118 shipments moving within the period of limitations, with interest at seven per cent (7%) per annum from the several dates of shipment to the time of payment.

Dated at Los Angeles, California, this 18 day of June, 1943.

Ben Harrison
District Judge [48]

EXHIBIT "F".

In the District Court of the United States
Southern District of California

Central Division

No. 2384-BH

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,
Plaintiff,

vs

DANIEL P. WHITE, an individual doing business as
GLOBE FREIGHT SERVICE,
Defendant.

JUDGMENT AFTER TRIAL BY COURT.

Appearances:

JONATHAN C. GIBSON, Esq.,
M. W. REED, Esq.,
L. W. BUTTERFIELD, Esq.,
WILLIAM F. BROOKS, Esq.,
448 Kerckhoff Building,
Los Angeles, California,
Attorneys for Plaintiff.

ARTHUR H. GLANZ, Esq.,
THEODORE W. RUSSELL, Esq.,
111 West Seventh Street,
Los Angeles, California,
Attorneys for Defendants.

The above entitled cause came on regularly for trial
on the 4th day of February, 1943, before the Court sitting

without a jury, [49] a jury trial having been waived by the respective parties; Jonathan C. Gibson, Esq., and William F. Brooks, Esq., appearing as attorneys for the plaintiff, and Arthur H. Glanz, Esq., and Theodore W. Russell, Esq., appearing as attorneys for the defendant.

Whereupon evidence was introduced by and on behalf of the respective parties, and the evidence being closed, the cause was submitted to the Court for consideration and determination on briefs of the respective parties, and after due deliberation thereon the Court files its Findings of Fact and Conclusions of Law, and orders judgment entered thereon in favor of plaintiff and against defendant Daniel P. White.

Wherefore, by reason of the law and findings aforesaid, it is Ordered, Adjudged and Decreed that plaintiff recover of the defendant Daniel P. White, the sum of \$19,685.58, with interest at the rate of seven per cent (7%) per annum from the date of each shipment to and including June 18, 1943, in the sum of \$3,923.39, and its costs of suit which are hereby taxed in the sum of \$47.14.

Dated: Los Angeles, California, June 18, 1943.

Ben Harrison
District Judge. [50]

EXHIBIT "G".

F. W. Turcotte

Attorney at Law

1004 Builders Exchange Bldg.

656 So. Los Angeles Street

Los Angeles

TRinity 5311

Attorney for Appellant

In the District Court of the United States
for the Southern District of California

Central Division

No. 2384 BH

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,

Plaintiff,

vs.

DANIEL P. WHITE, an individual, doing business as
GLOBE FREIGHT SERVICE,

Defendant.

NOTICE OF APPEAL

Notice is hereby given that Daniel P. White, an individual, doing business as Globe Freight Service, the defendant above named, hereby appeals to the Circuit Court of Appeals for the 9th Circuit from the final judgment entered in this action on June 18, 1943.

F. W. Turcotte

Attorney for Appellant.

1004 Builders Exchange Building,

656 South Los Angeles Street,

Los Angeles, 14, California. [51]

EXHIBIT "H".

In the District Court of the United States
for the Southern District of California

Central Division

No. 2384 BH

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,

Plaintiff,

vs.

DANIEL P. WHITE, an individual, doing business as
GLOBE FREIGHT SERVICE,

Defendant.

STIPULATION EXTENDING TIME TO FILE
RECORD

It is hereby stipulated, subject to the approval of the Court, that the time within which the transcript of record shall be filed in the United States Circuit Court of Appeals for the 9th Circuit shall be extended to and including June 8, 1944.

Notice by the Clerk is hereby waived.

F. W. TURCOTTE

Attorney for Defendant-Appellant

JONATHAN C. GIBSON

WILLIAM F. BROOKS

Attorney for Plaintiff-Appellee. [52]

EXHIBIT "I".

In the District Court of the United States
for the Southern District of California

Central Division

No. 2384 BH

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,
Plaintiff,

vs.

DANIEL P. WHITE, an individual, doing business as
GLOBE FREIGHT SERVICE,
Defendant.

ORDER EXTENDING TIME TO FILE RECORD

Pursuant to stipulation filed herein, it is ordered that the time within which the transcript of record shall be filed in the United States Circuit Court of Appeals for the 9th Circuit shall be and hereby is extended to and including June 8, 1944.

Dated: April 25, 1944.

BEN HARRISON
Judge.

[Endorsed]: Filed Jun. 6, 1944 Edmund L. Smith,
Clerk By John A. Childress, Deputy Clerk [53]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK.

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 53 inclusive contain the original Agreed Statement of Case on Appeal, Pursuant to Rule 76 of the Federal Rules of Civil Procedure which constitutes the record on appeal to the Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for certifying the foregoing record amount to \$1.85 which sum has been paid to me by appellant.

Witness my hand and the seal of said District Court this 6th day of June, 1944.

(Seal)

EDMUND L. SMITH,

Clerk

By Theodore Hocke

Deputy Clerk.

[Endorsed]: No. 10791. United States Circuit Court of Appeals for the Ninth Circuit. Daniel P. White, an individual doing business as Globe Freight Service, Appellant, vs. The Atchison, Topeka and Santa Fe Railway Company, a corporation, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California. Central Division.

Filed June 8, 1944.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

Before the United States Circuit Court of Appeals for
the Ninth Circuit

No. 10791

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation,

Plaintiff and Appellee,

vs.

DANIEL P. WHITE, an individual, doing business as
GLOBE FREIGHT SERVICE,

Defendant and Appellant.

STATEMENT OF POINTS RELIED ON BY
APPELLANT.

Comes now Daniel P. White, an individual, doing business as Globe Freight Service, the appellant in the above-entitled cause, and states that the points upon which he intends to rely in this Court in this case are as follows:

I

Section 419, Part IV of the Interstate Commerce Act bars recovery by rail carriers subject to Part I of the Interstate Commerce Act of undercharges growing out of the transportation of goods for freight forwarders prior to May 16, 1942.

II

Section 419 of Part IV of the Interstate Commerce Act grants immunity to freight forwarders from alleged undercharges claimed by rail carriers subject to Part I of the Interstate Commerce Act for transportation performed by said rail carriers for freight forwarders prior to May 16, 1942.

III

Section 419 of Part IV of the Interstate Commerce Act bars the plaintiff and appellee from recovery of the alleged undercharges.

Dated June 5, 1944.

F. W. Turcotte
Counsel for Appellant.

[Endorsed]: Filed Jun. 8, 1944. Paul P. O'Brien,
clerk.

[Title of Circuit Court and Cause.]

DESIGNATION OF RECORD FOR PRINTING.

Comes now Daniel P. White, an individual, doing business as Globe Freight Service, the Appellant in the above entitled cause, and designates the whole of the record, as filed in this Court, to be printed.

Dated June 6, 1944.

F. W. Turcotte
Attorney for Appellant.

[Endorsed]: Filed Jun. 8, 1944. Paul P. O'Brien,
clerk.

